



May 12, 2004

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BOB ALDRICH
Acting Executive Officer

TO: Local Agency Formation Commission

FROM: Acting Executive Officer

SUBJECT: 2004 Update to Local Guidelines for Implementing CEQA

On December 13, 2000, the Commission adopted *Local Guidelines for Implementing the California Environmental Quality Act* in accordance with Section 21082 of the California Environmental Quality Act (CEQA). Since then, new legislation and case law have warranted minor revisions to those guidelines.

A copy of the proposed 2004 updated version of the Commission's local CEQA guidelines is attached for consideration and adoption by the Commission. A memorandum prepared by LAFCO counsel, Best Best & Krieger LLP, summarizing the relevant 2003 CEQA legislation and case law is attached for reference by the Commission.

RECOMMENDATION

Staff recommends that the Commission:

1. Adopt the attached resolution adopting "Local Guidelines for Implementing the California Environmental Quality Act (2004)."

Respectfully submitted,

BOB ALDRICH

Attachment:

1. BB&K Summary
2. Resolution
3. 2004 Local CEQA Guidelines

STAFF SUMMARY OF THE CEQA EVALUATION PROCESS

Excerpted from these Local Guidelines for Implementing
the California Environmental Quality Act

ACTION		GUIDELINES SECTION REFERENCE
(A)	Staff determines whether the Commission is Lead or Responsible Agency for the proposed activity.	2.01, 2.02, 2.05, 2.09
(1)	As a Lead Agency, the Commission shall decide whether a Negative Declaration, Mitigated Negative Declaration or an EIR will be required and shall prepare and consider the document before making its decision on whether and how to approve the proposed activity.	2.03, 2.04
(2)	As a Responsible Agency, the Commission shall provide data as requested by the Lead Agency, consider the documents prepared by the Lead Agency and reach its own conclusion on whether and how to approve the proposed activity.	2.05, 2.06, 2.07, 2.08
(B)	Staff examines proposed activity ("project") to determine whether it is exempt.	3.03
(1)	The project can be exempt for any of the following reasons:	
(a)	The activity does not come within the legal definition of "project."	3.01
(b)	It is a disapproved project.	3.06
(c)	It can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment.	3.07
(d)	It is a ministerial, not discretionary, action taken by the Commission.	3.02
(e)	It is covered by one of the exemptions in the CEQA statute.	3.08, 3.09, 3.10, 3.11, 3.12, 3.13, 3.14, 3.15

ACTION	GUIDELINES SECTION REFERENCE
(f) It is covered by one of the exemptions in the State Guidelines.	3.16
(2) If the activity is determined to be exempt, Staff completes and files internally a Preliminary Exemption Assessment (Form "A"). A Notice of Exemption (Form "B") should be filed with the Clerk <u>following</u> Commission approval of a project. (Attach Form "A", too.) The Clerk must post the Notice within twenty-four (24) hours of its receipt, and the Notice must remain posted for thirty (30) days. A thirty-five (35) day statute of limitations for legal challenges begins to run <u>only</u> if and when the Notice of Exemption is filed with the Clerk. If no Notice is filed, the statute of limitations for legal challenges is one hundred eighty (180) days.	3.04, 3.05
(3) If the activity is not exempt, Staff proceeds with its own environmental evaluation, beginning with the preparation of an Initial Study. (See Section (C) below.)	
(4) If anyone requests a copy of the Notice of Exemption prior to the date on which the Commission determines the activity is exempt, the copy must be mailed, first class postage prepaid, within five (5) days of the Commission's determination. If such a request is made following the Commission's determination, then the copy should be mailed in the same manner as soon as possible.	3.05
(C) Staff Preparation of an Initial Study.	5.01
(1) All Responsible and any Trustee Agencies must be consulted in the preparation of the Initial Study.	5.02, 5.15
(2) The City shall hold a scoping meeting if required.	5.04

ACTION	GUIDELINES SECTION REFERENCE
(3) Staff prepares an Initial Study, including the environmental checklist form (Form "J") and all explanations as necessary.	5.01, 5.05, 5.06, 5.07, 5.08, 5.09, 5.11, 5.12, 5.13, 5.14
(4) Based on the results of the Initial Study, Staff prepares an Environmental Impact Assessment (Form "C") for internal use only.	5.06, 5.17 (See also 5.03, 5.07, 5.08, 5.09, 5.10, 5.11, 5.12, 5.13, 5.14)
(a) If Staff concludes that the project will not have a significant effect on the environment, then it must recommend that a Negative Declaration be prepared.	
(b) If Staff concludes that the project could result in significant environmental effects but that the significant effects identified in the Initial Study have been avoided or mitigated to a point where clearly no significant effects would occur by revisions in the project plans or proposals made by or agreed to by the applicant, then it must recommend that a Mitigated Negative Declaration be prepared.	
(c) If Staff concludes that the project could or may have a significant effect on the environment, it must recommend that an Environmental Impact Report be prepared.	
(D) Staff Preparation of a Negative Declaration or Mitigated Negative Declaration.	6.01, 6.02

ACTION	GUIDELINES SECTION REFERENCE
(1) If Staff recommends preparation of a Negative Declaration or Mitigated Negative Declaration, Staff must prepare a Draft Negative Declaration (Form "E") (unsigned but otherwise fully completed including a statement of supporting reasons) and fill out a Notice of Intent to Adopt a Negative Declaration/Mitigated Negative Declaration (Form "D"). For a Mitigated Negative Declaration, Staff must also attach to Form "E" a description of mitigation measures for each significant impact.	6.01, 6.02, 6.04, 6.09
(2) Staff must then post a copy of the Notice of Intent, the Draft Negative Declaration/Mitigated Negative Declaration and Initial Study at the Commission's offices. The Notice must also be posted in the office of the Clerk of each County in which the project is located within twenty-four (24) hours of receipt by the Clerk, and must remain posted for a minimum of twenty (20) days, unless otherwise required by law to be posted for thirty (30) days.	6.05, 6.07
(3) At least twenty (20) days before the final adoption of the Negative Declaration/Mitigated Negative Declaration, Staff must give Notice of Intent to Adopt a Negative Declaration/Mitigated Negative Declaration (Form "D") by mail to the last known name and address of all individuals and organizations who have previously requested such notice <u>and</u> by at least one of the following: (a) publishing once in a newspaper of general circulation, or if more than one area will be affected, in the newspaper of largest circulation from among the newspapers of general circulation in those areas;	6.04, 6.05, 6.06, 6.07

ACTION	GUIDELINES SECTION REFERENCE
<p>(b) posting on and off site where the project is to be located;</p> <p>(c) mailing to owners and occupants of contiguous property.</p>	
<p>A public review period at least as long as the period of review by the State Clearinghouse is required for Negative Declarations or Mitigated Negative Declarations sent to the State Clearinghouse.</p>	
<p>(4) At the time noticed for the meeting on the Draft Negative Declaration, the Commission considers the matter. Comments, if any, from the public and Responsible Agencies and Trustee Agencies which pertain to resources under their authority and are received within the public comment period must be considered. If the Commission determines in light of the whole record that the project will not have a significant effect on the environment, it adopts the Negative Declaration/ Mitigated Negative Declaration. For a Mitigated Negative Declaration, the Commission must also adopt a mitigation monitoring or reporting program. In either case, the Commission must specify the location and custodian of the documents which constitute the record of proceedings. (If the Commission finds, in light of the whole record, that the project may have a significant effect on the environment, it must order the preparation of an EIR.)</p>	6.10, 6.11, 7.01

ACTION	GUIDELINES SECTION REFERENCE
MOTION:	
Move that this Commission finds in light of the whole record that the project will not have a significant effect on the environment, the Negative Declaration/Mitigated Negative Declaration reflects the independent judgment of the Commission, and that the Negative Declaration/Mitigated Negative Declaration as proposed by Staff be adopted.	
(5) The Commission can act upon the project after reviewing, considering, and adopting the Negative Declaration/Mitigated Negative Declaration.	6.12
MOTION:	
Move approval of the project, and direct Staff to file and post a Notice of Determination in accordance with the Commission's Guidelines.	
(6) Staff must file a Notice of Determination (Form "F") with the Clerk and also with the Office of Planning and Research if the project requires state agency approval within five (5) working days of approval. A fee of \$1,250 shall be paid at this time to the Clerk for projects which will adversely affect wildlife resources. (Refer to the Index at the end of this Staff Summary to see whether a handling fee or administration fee is also due.) The Notice must be posted in the Clerk's office within twenty-four (24) hours of receipt by the Clerk, and must remain posted for a minimum of thirty (30) days.	6.14, 6.17
(7) Staff simultaneously and conspicuously posts Notice of Determination at the Commission's offices.	6.14

ACTION	GUIDELINES SECTION REFERENCE
(8) A thirty (30) day statute of limitations for legal challenges usually begins to run <u>only</u> after the Notice of Determination has been filed with and posted by the Clerk (and with the Office of Planning and Research if approval by any State agency is involved).	6.14
(9) If anyone requests a copy of the Notice of Determination prior to the date on which the Commission adopts the Negative Declaration/Mitigated Negative Declaration, the copy must be mailed, first class postage prepaid, within five (5) days of the Commission's determination. If such a request is made following the Commission's determination, then the copy should be mailed in the same manner as soon as possible.	6.14
(E) Staff Preparation of an EIR.	7.01
(1) If an Environmental Impact Report ("EIR") is required, the Commission as Lead Agency shall send a Notice of Preparation (Form "G") to all Responsible and any Trustee Agencies, and the Office of Planning and Research. A Notice of Completion (Form "H") must be attached as a cover sheet when a Notice of Preparation is submitted to the Office of Planning and Research. Responsible and Trustee Agencies must respond within thirty (30) days. The Notice must be posted in the office of the Clerk for each county in which the project is located within twenty-four (24) hours of receipt by the Clerk, and must remain posted for thirty (30) days.	7.03

ACTION	GUIDELINES SECTION REFERENCE
(2) Staff shall commence preparation of a Draft EIR. Staff may begin work on it immediately without awaiting responses to the Notice of Preparation. If a Draft EIR, EIR or Focused EIR is prepared under contract to the Commission, the contract for work must be executed within forty-five (45) days from the date the Commission sends the Notice of Preparation, unless an extension is mutually agreed upon by the Commission and project applicant. Early consultation ("scoping") is advisable during the drafting of the EIR with all Responsible Agencies, Trustee Agencies and interested individuals and organizations of which staff is reasonably aware.	7.02, 7.04, 7.05, 7.06, 7.07
(3) Upon completion of the Draft EIR, Staff shall file a Notice of Completion (Form "H") with the Office of Planning and Research and give the Notice inviting comment upon the Draft EIR (Form "K") by mail to the last known names and addresses of all individuals and organizations who have previously requested such notice and by at least one of the following:	7.18, 7.19
(a) publishing once in a newspaper of general circulation, or if more than one area will be affected, in the newspaper of largest circulation from among the newspapers of general circulation in those areas;	7.18
(b) posting on and off site where the project is to be located;	7.18
(c) mailing to owners and occupants of contiguous property.	7.18

ACTION	GUIDELINES SECTION REFERENCE
<p>The Notice shall be posted in the Clerk's office of each county in which the project is located, within twenty-four (24) hours of receipt by the Clerk, and shall remain posted for a minimum of thirty (30) days. This begins the comment period, which will be at least thirty (30) to forty-five (45) days depending on the project.</p>	7.18
<p>(4) The Commission may at its discretion conduct a public hearing on the Draft EIR no sooner than fourteen (14) days after filing of the Notice of Completion but before the expiration of the comment period.</p>	7.23
<p>(5) Comments on the Draft EIR are evaluated by Staff, responses are compiled and a Final EIR is prepared. At least ten (10) days prior to certifying a Final EIR, the Commission shall provide a written response to any agency which has made comments on the Draft EIR.</p>	7.24, 7.25
<p>(6) If "significant" new information is added to the EIR or if the Draft EIR is so inadequate and conclusory that meaningful public review and comment were precluded, notice and consultation must be repeated.</p>	7.26
<p>(7) Staff considers the Final EIR and makes a recommendation to the Commission regarding whether the Final EIR is in order and whether it has been completed in compliance with CEQA, the State Guidelines and the Commission's local guidelines. The Final EIR and the recommendation is presented to the Commission which shall certify that the Final EIR is in order and has been completed in compliance with CEQA, the State Guidelines, and the Commission's Guidelines, or refer it back to Staff for further work. A mitigation monitoring or reporting program must also be adopted.</p>	7.27, 7.28, 7.29

ACTION	GUIDELINES SECTION REFERENCE
MOTION:	
Move that this Commission finds and certifies that the Final EIR has been completed in compliance with the California Environmental Quality Act, the State Guidelines, and the Commission's Local Guidelines, that it has reviewed and considered the information contained therein in making its decision on the project, and the Final EIR reflects the independent judgment of the Commission.	
(8) The Commission must review and consider the information in the EIR before considering and approving the project.	7.28
(9) Before the Commission approves a project, findings must be made as to whether each significant effect identified in the EIR will be mitigated, why alternatives which could reduce environmental impacts were rejected, and, in some cases, where the record can be reviewed.	7.29, 7.30, 7.32
(10) Before the Commission approves a project which allows significant effects to occur without mitigating these effects to a level of insignificance, it must make written findings setting forth the overriding considerations which led the Commission to forego full mitigation. The location and custodian of the documents which constitute the record of proceedings shall be specified.	7.29, 7.31, 7.32

ACTION	GUIDELINES SECTION REFERENCE
MOTION:	
Move approval of the project for the following reasons:	
[State in writing reasons to support approval] and further find that:	
[Incorporate one or more findings of overriding considerations.]	
(11) If the project is approved, the Commission directs Staff to prepare a Notice of Determination (Form "F").	7.33
MOTION:	
Move approval and instruct Staff to prepare and file a Notice of Determination thereon pursuant to the Commission's Guidelines.	
(12) Staff must file a Notice of Determination with the Clerk and also with the Office of Planning and Research if the project requires State approval within five (5) working days of approval. The Clerk must post the Notice within twenty-four (24) hours of receipt. A fee of \$850 shall be paid at this time to the Clerk for projects which will adversely affect wildlife resources. (Refer to the Index at the end of this Staff Summary to see whether a handling fee or administration fee is also due.) The Notice shall be posted in the office of the Clerk for thirty (30) days. If a Statement of Overriding Considerations is adopted, this must be noted in the Notice of Determination.	7.33, 7.34, 7.36
(13) Staff simultaneously and conspicuously posts Notice of Determination at the Commission's offices.	7.33

ACTION	GUIDELINES SECTION REFERENCE
(14) The thirty (30) day statute of limitations for legal challenges usually begins to run <u>only</u> after the Notice of Determination has been filed with the Clerk (and with the Office of Planning and Research if approval by any State agency is involved).	7.33
(15) If anyone requests a copy of the Notice of Determination prior to the date on which the Commission certifies the Final EIR, the copy must be mailed, first class postage prepaid, within five (5) days of the Commission's determination. If such a request is made following the Commission's determination, then the copy should be mailed in the same manner as soon as possible.	7.33

INDEX TO ENVIRONMENTAL FILING BY COUNTY

County	DFG Handling Fee or Administration Fee	Department to Contact	Phone Number	Address
Amador	\$25.00 all situations.	County Clerk	209/223-6468	Amador County Recorder/Clerk's Office 500 Argonaut Lane Jackson, CA 95642
El Dorado	\$35.00, only when DFG receives a fee.	County Clerk	530/621-5355 (Ask for Joanne)	El Dorado County Recorder/Clerk's Office 360 Fair Lane, Building B Placerville, CA 95667
Fresno	\$25.00 only when DFG receives a fee.	County Clerk	559/488-3003 (Ask for Victoria Mendez)	Fresno County Clerk's Office 2221 Kern St. Fresno, CA 93721-2600
Humboldt	\$25.00 all situations.	County Clerk	707/445-7593	Humboldt County Recorder/Clerk's Office 825 Fifth Street, Room 108 Eureka, CA 95501
Imperial	\$25.00 all situations.	County Clerk	760/339-4427 (Ask for Wendy or Isabel)	Imperial County Clerk's Office 940 Main Street, Office #202 El Centro, CA 92243-2865
Inyo	No fee.	County Clerk	760/878-0224	Inyo County Clerk's Office P. O. Drawer F [or] 168 N. Edwards Independence, CA 93526
Kern	Currently no fee.	County Clerk	661/868-3743 (Ask for Phyllis)	Kern County Clerk's Office 1115 Truxtun, First Flr. Bakersfield, CA 93301

INDEX TO ENVIRONMENTAL FILING BY COUNTY

County	DFG Handling Fee or Administration Fee	Department to Contact	Phone Number	Address
Kings	\$25.00 all situations.	Planning	559/582-3211 ext. 2600	Kings County Planning Department 1400 West Lacey Blvd. Hanford, CA 93230
Lake	\$25.00 only when DFG receives a fee.	Community Development	707/263-2221 (Ask for David, Rick or Danelle)	Community Development Dept. Lake County 255 North Forbes Street Lakeport, CA 95453
Los Angeles	\$25.00 all situations.	Zoning Permits	562/462-2057 (Ask for Gina)	Los Angeles Clerk 12400 E. Imperial Highway, Room 2001 Norwalk, CA 90650
Marin	\$30.00 all situations.	County Clerk	415/499-6415 (Ask for Joyce Whitney)	Marin County Clerk P.O. Box E San Rafael, CA 94913 [or] 3501 Civic Center Drive, #247 San Rafael, CA 94903 *Send original and two copies for Clerk's use
Mendocino	\$25.00 all situations.	County Clerk	707/463-4371 (Ask for Cindy or Maryanna)	Mendocino County Clerk's Office 501 Low Gap Road, R., 1020 Ukiah, CA 95482

INDEX TO ENVIRONMENTAL FILING BY COUNTY

County	DFG Handling Fee or Administration Fee	Department to Contact	Phone Number	Address
Modoc	\$25.00 only when DFG receives a fee.	County Clerk	530/233-6200	Send first to Planning Dept. Planning Dept. will forward onto Clerk's office for filing. Modoc County Planning Dept. 204 West 4 th Street Alturas, CA 96101
Mono	\$25.00 all situations	County Clerk	760/932-5241 (Ask for Cindy)	Mono County Clerk's Office P. O. Box 237 [or] Annex 2, Bryant Street Bridgeport, CA 93517
Monterey	\$25.00 all situations.	County Clerk	831/755-5450	Monterey County Clerk's Office County Court House 240 Church Street West Wing, Room 305 Salinas, CA 93902 *Send original and two copies for Clerk's use
Napa	\$35.00 all situations. \$35.00 fee is waived if applicant is a government agency	County Clerk	707/253-4247 707/253-4105 (Ask for Karen)	Napa County Clerk's Office P.O. Box 298 [or] (better to use post office box) 900 Coombs Street, Room 116 Napa, CA 94559-0298

INDEX TO ENVIRONMENTAL FILING BY COUNTY

County	DFG Handling Fee or Administration Fee	Department to Contact	Phone Number	Address
Nevada	\$32.00 all situations.	County Recorder	530/265-1221 (Ask for Krista)	Nevada County Recorder's Office 950 Maidu Avenue Nevada City, CA 95959
Orange	\$43.00 all situations.	County Clerk	714/834-2461	EIR Clerk Orange County Clerk/Recorder 12 Civic Center Plaza, Rm 106 Santa Ana, CA 92701
Riverside	\$64.00 all situations.	County Clerk	909/486-7013 (Ask for Cindy Kohler)	County Clerk's Office Riverside County P.O. Box 751 2720 Gateway Dr. (for in person filing) Riverside, CA 92502-0751
Sacramento	\$21.00 all situations.	County Clerk	916/874-6334 800/313-7133-0 For Maria Bell 916/874-1645	Sacramento County Clerk/Recorder's Office P. O. Box 839 [or] 600 8th Street Sacramento, CA 95814
San Bernardino	\$35.00 all situations.	Clerk of the Board	909/387-4454 (Ask for John)	Clerk of the Board County of San Bernardino 385 N. Arrowhead Avenue, 2 nd flr. San Bernardino, CA 92415

INDEX TO ENVIRONMENTAL FILING BY COUNTY

County	DFG Handling Fee or Administration Fee	Department to Contact	Phone Number	Address
San Diego	\$25.00 for Notice of Determination.	County Clerk	619/531-6059 (Ask for Alejandra Lopez)	Attention: Alejandra Lopez San Diego Assessor/Recorder/Clerk P. O. Box 121750 San Diego, CA 92112-1750 [or] County Administration Center 1600 Pacific Hwy., Room 260 San Diego, CA 92119 [all papers must be rec'd by 3:00]
San Luis Obispo	\$25.00 all situations.	County Clerk	805/781-5088	County Clerk's Office San Luis Obispo County 1144 Monterey Street San Luis Obispo, CA 93408
Santa Barbara	None. County does not collect fee. Pay directly to DFG.	Clerk of the Board	805/568-2240	Clerk of the Board Santa Barbara County 105 E. Anapamu St., Rm 407 Santa Barbara, CA 93101
Tehama	\$25.00 all situations.	County Clerk	530/527-3350	Tehama County Clerk's Office P.O. Box 250 [or] 633 Washington Street, Room 11 Red Bluff, CA 96080

INDEX TO ENVIRONMENTAL FILING BY COUNTY

County	DFG Handling Fee or Administration Fee	Department to Contact	Phone Number	Address
Ventura	\$25.00 for EIRs, Notice of Determinations on non-municipal projects. No fee for Negative Declarations. Fee waived if applicant is government agency.	County Clerk	805/654-2267 (Ask for Diane)	Ventura County Clerk's Office 800 South Victoria Avenue, LN 1210 Ventura, CA 93009-1210
Yuba	\$25.00 only when DFG gets a fee.	County Clerk	530/741-6341 (Ask for Terry Hansen)	Yuba County Clerk's Office 935 14th Street Marysville, CA 95901

INDEX TO ENVIRONMENTAL FILING WITH STATE

Agency	Fees	Phone	Address
State Clearing House / Governor's Office of Planning and Research	No administrative filing fee	916/445-0613	<p><i>When sending notices via U.S. Mail:</i></p> <p>P.O. Box 3044 Sacramento, California 95812-3044</p> <p><i>When sending notices via Overnight or Direct Delivery:</i></p> <p>1400 Tenth Street, Room 212 Sacramento, California 95812</p>

**LOCAL GUIDELINES
FOR IMPLEMENTING THE
CALIFORNIA ENVIRONMENTAL QUALITY ACT**

(2004 REVISION)

1. GENERAL PROVISIONS, PURPOSE AND POLICY

1.01 GENERAL PROVISIONS.

These Local Guidelines (“Guidelines”) are to assist the Commission in implementing the provisions of the California Environmental Quality Act (“CEQA”). These Guidelines are consistent with the Guidelines for the Implementation of CEQA (“State Guidelines”) which must be followed by state and local agencies in California. These Guidelines have been adopted pursuant to California Public Resources Code Section 21082.

1.02 PURPOSE.

The purpose of these Local Guidelines is to help the Commission accomplish the following basic objectives of CEQA:

- (a) To enhance and provide long-term protection for the environment, while providing a decent home and satisfying living environment for every Californian.
- (b) To provide information to governmental decision-makers and the public regarding the potential significant environmental effects of the proposed project.
- (c) To provide an analysis of the environmental effects of future actions associated with the project to adequately apprise all interested parties of the true scope of the project for intelligent weighing of the environmental consequences of the project.
- (d) To identify ways that environmental damage can be avoided or significantly reduced.
- (e) To prevent significant avoidable environmental damage through utilization of feasible project alternatives or mitigation measures.
- (f) To disclose and demonstrate to the public the reasons why a governmental agency approved the project in the manner chosen. Public participation is an essential part of the CEQA process. Each public agency should encourage wide public involvement, formal and informal, in order to receive and evaluate public reactions to environmental issues related to a public agency’s activities. Such involvement should include, whenever possible, making environmental information available in electronic format on the Internet, on a web site maintained or utilized by the public agency.

1.03 APPLICABILITY.

These Guidelines apply to any activity of the Commission which constitutes a “project” as defined in Guidelines Section 10.41. An Environmental Impact Report (“EIR”) is required for each such project which may have a significant effect on the environment. When the Commission finds that a project will have no significant environmental effect, a Negative Declaration or Mitigated Negative Declaration rather than an EIR shall be prepared.

An EIR serves several functions for the benefit of the Commission and the public. An EIR (1) identifies and analyzes the significant environmental effects of a proposed project, (2) identifies alternatives to the project, and (3) discloses possible ways to reduce or avoid potential environmental damage. These matters are to be evaluated by the Commission before the project is approved or disapproved.

The EIR is an informational document. It should not be used to rationalize approval of a project. CEQA requires that decisions be informed and balanced. It must not be subverted into an instrument for the oppression and delay of social economic, or recreational development or advancement. Indications of adverse environmental impacts from the project which are identified in the EIR do not necessarily require disapproval of a project. Rather, when an EIR shows that a project would cause substantial adverse changes in the environment, the Commission must respond to the information by one or more of the following methods:

- (a) Changing the proposed project.
- (b) Imposing conditions on the approval of the project.
- (c) Adopting plans or ordinances to control a broader class of activities to avoid the problems.
- (d) Choosing an alternative way of meeting the same need.
- (e) Disapproving the project.
- (f) Finding that the unavoidable, significant environmental damage is acceptable pursuant to a Statement of Overriding Considerations.

Although CEQA requires that major consideration be given to preventing environmental damage, the Commission also has an obligation to balance other public objectives for each project including economic and social factors.

1.04 REDUCING DELAY AND PAPERWORK.

The State Guidelines encourage local governmental agencies to reduce delay and paperwork by, among other things:

- (a) Integrating the CEQA process into early planning review; to this end, the project approval process and these procedures, to the maximum extent feasible, are to run concurrently, not consecutively;
- (b) Identifying projects which fit within categorical or other exemptions and are therefore exempt from CEQA processing;
- (c) Using initial studies to identify significant environmental issues and to narrow the scope of EIRs;
- (d) Using a Negative Declaration when a project not otherwise exempt will not have a significant effect on the environment;
- (e) Consulting with state and local responsible agencies before and during the preparation of an EIR so that the document will meet the needs of all the agencies which will use it;
- (f) Allowing applicants to revise projects to eliminate possible significant effects on the environment, thereby enabling the project to qualify for a Negative Declaration rather than an EIR;

- (g) Integrating CEQA requirements with other environmental review and consultation requirements;
- (h) Emphasizing consultation before an EIR is prepared, rather than submitting adverse comments on a completed document;
- (i) Combining environmental documents with other documents, such as general plans;
- (j) Eliminating repetitive discussions of the same issues by using EIRs on programs, policies or plans and tiering from statements of broad scope to those of narrower scope;
- (k) Reducing the length of EIRs by means such as setting appropriate page limits;
- (l) Preparing analytic, rather than encyclopedic EIRs;
- (m) Mentioning insignificant issues only briefly;
- (n) Writing EIRs in plain language;
- (o) Following a clear format for EIRs;
- (p) Emphasizing the portions of the EIR that are useful to decision-makers and the public and reducing emphasis on background material;
- (q) Incorporating information by reference; and
- (r) Making comments on EIRs as specific as possible.

1.05 COMPLIANCE WITH STATE LAW.

These Guidelines are intended to implement the provisions of CEQA and the State Guidelines, and the provisions of CEQA and the State Guidelines shall be fully complied with even though they may not be set forth or referred to herein.

1.06 TERMINOLOGY.

The terms “must” or “shall” identify mandatory requirements. The term “may” is permissive, with the particular decision being left to the discretion of the Commission. The term “should” identifies the guidance of the Office of Planning and Research, which the Commission can follow in the absence of countervailing considerations.

1.07 PARTIAL INVALIDITY.

In the event any part or provision of these Guidelines shall be determined to be invalid, the remaining portions which can be separated from the invalid unenforceable provisions shall continue in full force and effect.

1.08 ELECTRONIC DELIVERY OF COMMENTS AND NOTICES

Individuals may file a written request to receive copies of public notices provided under these Guidelines or the State Guidelines. The requestor may elect to receive these notices via email rather than regular mail. Notices sent by email are deemed delivered when the staff person sending the email sends it directed to the last email address provided by the requestor to the public agency.

Individuals may also submit comments on the CEQA documentation for a project via email. Comments submitted via email shall be treated as written comments for all purposes. Comments sent to the public agency via email are deemed received when they actually arrive in an email account of a staff person who has been designated or identified as the point of contact for a particular project.

2. LEAD AND RESPONSIBLE AGENCIES

2.01 LEAD AGENCY PRINCIPLE.

The Commission will be the Lead Agency if it will have principal responsibility for carrying out or approving a project. Where a project is to be carried out or approved by more than one public agency, only one agency shall be responsible for the preparation of environmental documents. This agency shall be called the Lead Agency.

2.02 SELECTION OF LEAD AGENCY.

Where two or more public agencies will be involved with a project, the Lead Agency shall be designated according to the following criteria:

- (a) If the project will be carried out by a public agency, that agency shall be the Lead Agency even if the project will be located within the jurisdiction of another public agency.
- (b) If the project will be carried out by a nongovernmental person or entity, the Lead Agency shall be the public agency with the greatest responsibility for supervising and approving the project as a whole. The Lead Agency will normally be the agency with general governmental powers, rather than an agency with a single or limited purpose. (For example, a district which will provide a public service or utility to the project serves a limited purpose.) If two or more agencies meet this criteria equally, the agency which acts first on the project will be the Lead Agency.
- (c) If two or more public agencies have a substantial claim to be the Lead Agency under either (a) or (b), they may designate one agency as the Lead Agency by agreement. An agreement may also provide for cooperative efforts by contract, joint exercise of powers, or similar devices. If an agreement cannot be reached, the dispute may be submitted to the Office of Planning and Research by any public agency, or the applicant if a private project is involved.

2.03 DUTIES OF A LEAD AGENCY.

As a Lead Agency, the Commission shall decide whether a Negative Declaration, Mitigated Negative Declaration or an EIR will be required for a project and shall prepare, or cause to be prepared, and consider the document before making its decision on whether and how to approve the project. The documents may be prepared by Staff or by private consultants pursuant to a contract with the Commission. However, the Commission shall independently review and analyze all draft and final reports or declarations prepared for a project, and shall find that the report or declaration reflects the independent judgment of the Commission prior to approval of the document. If a Draft EIR, Final EIR or Focused EIR is prepared under a contract to the Commission, the contract must be executed within forty-five (45) days from the date on which the Commission sends a Notice of Preparation. (See Guidelines Section 7.02.)

During the process of preparing an EIR, the Commission shall have the following duties:

- (a) Immediately after deciding that an EIR is required for a project, the Commission shall send to each Responsible Agency a Notice of Preparation (Form "G") stating that an EIR will be prepared. (See Guidelines Section 7.03.)

- (b) The Commission shall prepare or cause to be prepared the Draft EIR for the project. (See Guidelines Section 7.04.)
- (c) Once the Draft EIR is completed, the Commission shall file a Notice of Completion (Form “H”) with the Office of Planning and Research. (See Guidelines Section 7.18.)
- (d) The Commission shall consult with state, federal and local agencies which exercise authority over resources which may be affected by the project for their comments on the completed Draft EIR. (See Guidelines Section 7.21.)
- (e) The Commission shall provide public notice of the availability of a Draft EIR (Form “K”) at the same time that it sends a Notice of Completion to the Office of Planning and Research. (See Guidelines Section 7.18.)
- (f) The Commission shall evaluate comments on environmental issues received from persons who reviewed the Draft EIR and shall prepare or cause to be prepared a written response. A written response must be provided at least ten (10) days prior to certifying an EIR. (See Guidelines Section 7.24.)
- (g) The Commission shall prepare or cause to be prepared a Final EIR before approving the project. (See Guidelines Section 7.25.)
- (h) The Commission shall certify that the Final EIR has been completed in compliance with CEQA and has been reviewed by the Commission. (See Guidelines Section 7.27.)
- (i) The Commission shall include in the Final EIR, the reply of any Responsible Agency to the Notice of Preparation or Draft EIR. (See Guidelines Sections 2.07, 7.24 and 7.25.)

As Lead Agency, the Commission may charge a nonelected body with the responsibility of adopting, certifying or authorizing environmental documents; however, the Commission must have a procedure allowing for the appeal of the CEQA decisions of any nonelected body to the City Council. Existing provisions of the municipal code may be used to satisfy this requirement.

2.04 CONSULTATION REQUIREMENTS FOR DEVELOPMENT PROJECTS.

An applicant for a development project must submit a signed statement to the Commission stating whether the project and any alternatives are located on a site which is included in any list compiled by the Secretary for Environmental Protection of the California Environmental Protection Agency (“California EPA”) listing hazardous waste sites and other specified sites located in the Commission. The applicant’s statement must contain the following information:

- (a) The applicant’s name, address, and phone number.
- (b) Address of site, and local agency (city/county).
- (c) Assessor’s book, page, and parcel number.
- (d) The list which includes the site, identification number, and date of list.

Before accepting as complete an application for any development project as defined in Guidelines Section 10.13, the Commission shall consult lists compiled by the Secretary for Environmental Protection of the California EPA pursuant to Government Code Section 65962.5 listing hazardous waste sites and other specified sites located in the Commission’s jurisdiction. The Commission shall notify an applicant for a development project if the project site is located on such a list and not already identified. In the Notice of Intent to Adopt a Negative Declaration or Mitigated Negative Declaration (see Guidelines Section 6.04) or the Notice of Preparation of

Draft EIR (see Guidelines Section 7.03), the Commission shall specify the California EPA list, if any, which includes the project site, and shall provide the information contained in the applicant's statement.

This provision applies only to projects for which applications have not been deemed complete on or before January 1, 1992.

2.05 RESPONSIBLE AGENCY PRINCIPLE.

Where a project is to be carried out or approved by more than one public agency, all public agencies other than the Lead Agency which have discretionary approval power over the project shall be called Responsible Agencies.

2.06 DUTIES OF A RESPONSIBLE AGENCY.

As a Responsible Agency, the Commission shall consider the environmental documents prepared or caused to be prepared by the Lead Agency and reach its own conclusions on whether and how to approve the project involved. The Commission shall also both respond to consultation by the Lead Agency and attend meetings as requested by the Lead Agency to assist the Lead Agency in preparing adequate environmental documents. The Commission should also review and comment on Draft EIRs and Negative Declarations. Comments shall be limited to those project activities which are within the Commission's area of expertise or are required to be carried out or approved by the Commission or are subject to the Commission's powers. As a Responsible Agency, the Commission may identify significant environmental effects of a project for which mitigation is necessary. As a Responsible Agency, the Commission may submit to the Lead Agency proposed mitigation measures which would address those significant environmental effects. If mitigation measures are required, the Commission shall submit to the Lead Agency complete and detailed performance objectives for such mitigation measures which would address the significant environmental effects identified, or refer the Lead Agency to appropriate, readily available guidelines or reference documents. Any mitigation measures submitted to the Lead Agency by the Commission, shall be limited to measures which mitigate impacts to resources which are within the Commission's authority. For private projects, the Commission, as a Responsible Agency, may require the project proponent to provide such information as may be required and to reimburse the Commission for all costs incurred by it in reporting to the Lead Agency.

2.07 RESPONSE TO NOTICE OF PREPARATION BY RESPONSIBLE AGENCIES.

Within thirty (30) days of receipt of a Notice of Preparation of an EIR, the Commission, as a Responsible Agency, shall specify to the Lead Agency the scope and content of the environmental information related to the Commission's area of statutory responsibility in connection with the proposed project. At a minimum, the response shall identify the significant environmental issues and possible alternatives and mitigation which the Commission, as a Responsible Agency, will need to have explored in the Draft EIR. Such information shall be specified in writing, shall be as specific as possible, and shall be communicated to the Lead Agency, by certified mail or any other method of transmittal which provides it with a record that

the notice was received, not later than thirty (30) days after receipt of the notice of the Lead Agency's determination. The Lead Agency shall incorporate this information into the EIR.

2.08 USE OF FINAL EIR OR NEGATIVE DECLARATION BY RESPONSIBLE AGENCIES.

The Commission, as a Responsible Agency, shall consider the Lead Agency's Final EIR or Negative Declaration before acting upon or approving a proposed project. The Commission shall consider the adequacy of the prior environmental documents for its purposes and in certain instances may require that a Subsequent EIR or a Supplemental EIR be prepared. Mitigation measures and alternatives deemed feasible and relevant to the Commission's role in carrying out the project shall be adopted. Findings which are relevant to the Commission's responsibility shall be made. A Notice of Determination shall be filed by the Responsible Agency, but need not state that the Lead Agency's EIR or Negative Declaration complies with CEQA.

2.09 SHIFT IN LEAD AGENCY RESPONSIBILITIES.

The Commission, as a Responsible Agency, shall assume the role of the Lead Agency if:

- (a) The Lead Agency did not prepare any environmental documents for the project, and the statute of limitations has expired for a challenge to the action of the appropriate Lead Agency.
- (b) The Lead Agency prepared environmental documents for the project, and all of the following conditions occur:
 - (1) A Subsequent or Supplemental EIR is required;
 - (2) The Lead Agency has granted a final approval for the project; and
 - (3) The statute of limitations has expired for a challenge to the action of the appropriate Lead Agency.
- (c) The Lead Agency prepared inadequate environmental documents without providing public notice of a Negative Declaration or sending Notice of Preparation of an EIR to Responsible Agencies and the statute of limitations has expired for a challenge to the action of the appropriate Lead Agency.

3. ACTIVITIES EXEMPT FROM CEQA

3.01 ACTIONS SUBJECT TO CEQA.

CEQA applies to discretionary projects proposed to be carried out or approved by public agencies. If the proposed activity does not come within the definition of “project” contained in Guidelines Section 10.41, it is exempt from CEQA review.

“Project” does not include:

- (a) Proposals for legislation to be enacted by the State Legislature.
- (b) Continuing administrative or maintenance activities, such as purchases for supplies, personnel-related actions, general policy and procedure making (except as provided in Guidelines Section 10.41), feasibility or planning studies.
- (c) The submittal of proposals to a vote of the people in response to a petition drive initiated by voters.
- (d) The creation of government funding mechanisms or other government fiscal activities that do not involve any commitment to any specific project which may have a potentially significant physical impact on the environment. Government funding mechanisms may include, but are not limited to, assessment districts and community facilities districts.
- (e) Where the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment.

3.02 MINISTERIAL PROJECTS.

A ministerial project is exempt from CEQA review. This is a project undertaken or approved by the Commission upon a given set of facts, in a prescribed manner, and in obedience to statute, ordinance, regulation or other legal mandate. A ministerial project is one in which the Commission officer or employee has no discretionary power to exercise personal judgment or opinion as to the method in which the project will be carried out. CEQA review would be irrelevant for a ministerial project, because the Commission must act in a preordained way regardless of environmental impacts. The decision whether a proposed project is ministerial in nature may involve or require, to some extent, interpretation of the language of the legal mandate, and should be made on a case-by-case basis. Ministerial projects include, but are not limited to:

- (a) Issuance of business licenses;
- (b) Approval of final subdivision maps and final parcel maps;
- (c) Approval of individual utility service connections and disconnections;
- (d) Issuance of licenses;
- (e) Issuance of a permit to do street work;
- (f) Issuance of building permits where the Commission does not retain significant discretionary power to modify or shape the project.

Where a project involves an approval that contains elements of both a ministerial and discretionary nature, the project will be deemed to be discretionary and subject to the requirements of CEQA.

3.03 EXEMPTIONS IN GENERAL.

CEQA and the State Guidelines exempt certain activities and provide that local agencies shall further identify and describe certain exemptions. The requirements of CEQA and the obligation to prepare an EIR, Negative Declaration or Mitigated Negative Declaration do not apply to the exempt activities which are set forth in CEQA, the State Guidelines and this Chapter.

3.04 PRELIMINARY EXEMPTION ASSESSMENT.

If, in the judgment of Staff, a proposed activity is exempt, Staff should so find on the form entitled "Preliminary Exemption Assessment" (Form "A"). The Preliminary Exemption Assessment shall be retained at the Commission's offices as a public record.

3.05 NOTICE OF EXEMPTION.

After Commission approval of an exempt project, a "Notice of Exemption" (Form "B") may be filed by Staff with the Clerk. The Preliminary Exemption Assessment shall be attached to the Notice of Exemption for filing. If filed, the Clerk must post the Notice within twenty-four (24) hours of receipt, and the Notice must remain posted for thirty (30) days. Although no California Department of Fish and Game ("DFG") filing fee is applicable to exempt projects, the Preliminary Exemption Assessment shall be attached to the Notice of Exemption for filing. The Clerk customarily charges a documentary handling fee to pay for record keeping on behalf of the DFG. Refer to the Index in the Staff Summary to determine if such a fee will be required for the project.

The filing of a Notice of Exemption is recommended because it starts a 35-day statute of limitations on legal challenges to the Commission's determination that the project is exempt from CEQA. The Commission is encouraged to make postings of all filed notices available in electronic format on the Internet. These electronic postings are in addition to the procedures required by the State Guidelines and the Public Resources Code. If a Notice of Exemption is not filed, a 180-day statute of limitations will apply. When a request is made for a copy of the Notice prior to the date on which the Commission determines the project is exempt, the Notice must be mailed, first class postage prepaid, within five (5) days of the Commission's determination. If such a request is made following the Commission's determination, then the copy should be mailed in the same manner as soon as possible.

3.06 DISAPPROVED PROJECTS.

Projects which the Commission rejects or disapproves are exempt. An applicant shall not be relieved of paying the costs for an EIR or Negative Declaration prepared for a project prior to the Commission's disapproval of the project.

3.07 NO POSSIBILITY OF SIGNIFICANT EFFECT.

Where it can be seen with absolute certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is exempt.

3.08 EMERGENCY PROJECTS.

The following types of emergency projects are exempt: (The term “emergency” is defined in Guidelines Section 10.16.)

- (a) Work in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Section 8550 of the Government Code. This includes projects that will remove, destroy, or significantly alter a historical resource when that resource represents an imminent threat to the public of bodily harm or of damage to adjacent property or when the project has received a determination by the State Office of Historic Preservation pursuant to Section 5028(b) of the Public Resources Code.
- (b) Emergency repairs to publicly or privately owned service facilities necessary to maintain service essential to the public health, safety or welfare.
- (c) Projects necessary to prevent or mitigate an emergency. This does not include long-term projects undertaken for the purpose of preventing or mitigating a situation that has a low probability of occurrence in the short-term.
- (d) Projects undertaken, carried out, or approved by a public agency to maintain, repair, or restore an existing highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide, provided that the project is within the existing right of way of that highway and is initiated within one year of the damage occurring. This exemption does not apply to highways designated as official state scenic highways, nor any project undertaken, carried out, or approved by a public agency to expand or widen a highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide.
- (e) Seismic work on highways and bridges pursuant to Section 180.2 of the Streets and Highways Code Section 180, et seq.

3.09 FEASIBILITY AND PLANNING STUDIES.

A project which involves only feasibility or planning studies for possible future actions which the Commission has not yet approved, adopted or funded is exempt.

3.10 RATES, TOLLS, FARES AND CHARGES.

The establishment, modification, structuring, restructuring or approval of rates, tolls, fares or other charges by the Commission which the Commission finds are for one or more of the purposes listed below are exempt.

- (a) Meeting operating expenses, including employee wage rates and fringe benefits;
- (b) Purchasing or leasing supplies, equipment or materials;
- (c) Meeting financial reserve needs and requirements;
- (d) Obtaining funds for capital projects necessary to maintain service within existing service areas.

When the Commission determines that one of the aforementioned activities pertaining to rates, tolls, fares or charges is exempt from the requirements of CEQA, it shall incorporate written findings setting forth the specific basis for the claim of exemption in the record of any proceeding in which such an exemption is claimed.

3.11 SUBSURFACE PIPELINES WITHIN A PUBLIC RIGHT-OF-WAY.

The installation of a new pipeline or the maintenance, repair, restoration, reconditioning, relocation, replacement, removal or demolition of an existing subsurface pipeline is exempt where the project is less than one mile in length and located within a public street, highway or any other public right-of-way.

3.12 CERTAIN RESIDENTIAL HOUSING PROJECTS.

CEQA does not apply to the construction, conversion, or use of residential housing if the project meets all of the general requirements described in Section A below and satisfies that specific requirements for any one of the following three categories: (1) agricultural housing (Section B below), (2) affordable housing projects in urbanized areas (Section C below), or (3) affordable housing projects near major transit stops (Section D below).

- A. General Requirements. The construction, conversion, or use of residential housing units affordable to low-income households (as defined in SECTION 10) located on an infill site in an urbanized area is exempt from CEQA if *all* of the following general requirements are satisfied:
- (1) The project is consistent with:
 - (a) any applicable general plan, specific plan, and local coastal program, including any mitigation measures, as that plan or program existed on the date that the application was deemed complete, and
 - (b) any applicable zoning ordinance, as that zoning ordinance existed on the date that the application was deemed complete. A project may satisfy the zoning consistency requirement even if it proposes rezoning of the project site as long as the proposed zoning is consistent with the applicable General Plan designation;
 - (2) Community level environmental review has been adopted or certified;
 - (3) The project and other projects approved prior to the approval of the project can be adequately served by existing utilities, and the project applicant has paid or committed to pay all applicable in-lieu or development fees;
 - (4) The project meets all of the following four criteria relating to biological resources:
 - (a) The project site does not contain wetlands,
 - (b) The project site does not have any value as a wildlife habitat,
 - (c) The project does not harm any species protected by the federal Endangered Species Act of 1973, the Native Plant Protection Act, or the California Endangered Species Act, and

- (d) The project does not cause the destruction or removal of any species protected by a local ordinance in effect at the time the application for the project was deemed complete;
- (5) The site of the project is not included on any list of facilities and sites compiled pursuant to Section 65962.5 of the Government Code;
- (6) The project site is subject to a preliminary endangerment assessment prepared by a registered environmental assessor to determine the existence of any release of a hazardous substance on the site and to determine the potential for exposure of future occupants to significant health hazards from any nearby property or activity;
 - (a) If a release of a hazardous substance is found to exist on the site, the release shall be removed or any significant effects of the release shall be mitigated to a level of insignificance in compliance with state and federal requirements.
 - (b) If a potential for exposure to significant hazards from surrounding properties or activities is found to exist, the effects of the potential exposure shall be mitigated to a level of insignificance in compliance with state and federal requirements.
- (7) The project does not have a significant effect on historical resources;
- (8) The project site is not subject to any of the following potential hazards except when mitigated as set forth below:
 - (a) A wildland fire hazard, as determined by the Department of Forestry and Fire Protection, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a wildland fire hazard,
 - (b) An unusually high risk of fire or explosion from materials stored or used on nearby properties,
 - (c) Risk of a public health exposure at a level that would exceed the standards established by any state or federal agency,
 - (d) Within a delineated earthquake fault zone, as determined pursuant to Section 2622 of the Public Resources Code, or a seismic hazard zone, as determined pursuant to Section 2696 of the PUBLIC Resources Code, unless the applicable general plan,
 - (e) Landslide hazard, flood plain, floodway, or restriction zone, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a landslide or flood.
- (9) The project site is not located on developed open space;
- (10) The project site is not located within the boundaries of a state conservancy; and

- (11) The project meets the requirements in either Section 21159.22, 21159.23 or 21159.24 of the Public Resources Code.
- B. Specific Requirements for Agricultural Housing (Public Resources Code Section 21159.22.) CEQA does not apply to the construction, conversion, or use of residential housing for agricultural employees that meets all of the general requirements described above in Section A and meets the following additional criteria:
- (1) The Project either:
 - (a) is affordable to lower income households, lacks public financial assistance, and the developer has provided sufficient legal commitments to ensure the continued availability and use of the housing units for lower income households for a period of at least fifteen (15) years; or
 - (b) provides housing for very low, low-, or moderate-income households, public financial assistance exists for the development project, and the developer of the project has provided sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of the housing units for low- and moderate-income households for a period of at least fifteen (15) years;
 - (2) The project site is adjacent on at least two sides to land that has been developed and the project consists of not more than forty-five (45) units or provides dormitories, barracks, or other group-living facilities for a total of forty-five (45) or fewer agricultural employees, and either:
 - (a) The project site is within incorporated City limits or within a census-defined place with a minimum population density of at least five thousand (5,000) persons per square mile; or
 - (b) The project site is within incorporated City limits or within a census-defined place and the minimum population density of the City or the census-defined place is at least one thousand (1,000) persons per square mile, unless the City determines that there is a reasonable possibility that the project would have a significant effect on the environment or that the cumulative effects of successive projects of the same type in the same area would, over time, be significant;
 - (3) If the project is located on a site zoned for general agricultural use, it must consist of twenty (20) or fewer units, or, if the housing consists of dormitories, barracks, or other group-living facilities, the project must not provide housing for more than twenty (20) agricultural employees; and

- (4) The project is not more than two (2) acres in area if the project site is located in an area with a population density of at least one thousand (1,000) persons per square mile, and is not more than five (5) acres in area for all other project sites.
- C. Specific Requirements for Affordable Housing Projects in Urbanized Areas (Public Resources Code Section 21159.23.) CEQA does not apply to any development project that consists of the construction, conversion, or use of residential housing consisting of one hundred (100) or fewer units that are affordable to low-income households if all of the general requirements described in Section A above are satisfied and the following additional criteria are also met:
 - (1) The developer of the project provides sufficient legal commitments to the local agency to ensure the continued availability and use of the housing units for lower income households for a period of at least thirty (30) years;
 - (2) The project site:
 - (a) has been previously developed for qualified urban uses;
 - (b) is immediately adjacent to parcels that are developed with qualified urban uses; or
 - (c) at least 75% of the perimeter of the site adjoins parcels that are developed with qualified urban uses and the remaining 25% of the perimeter of the site adjoins parcels that have previously been developed for qualified urban uses, the site has not been developed for urban uses and no parcel within the site has been created within ten (10) years prior to the proposed development of the site;
 - (3) The project site is not more than five (5) acres in area; and
 - (4) The project site is located:
 - (a) within an urbanized area or within a census-defined place with a population density of at least five thousand (5,000) persons per square mile,
 - (b) if the project consists of fifty (50) or fewer units, within an incorporated city with a population density of at least twenty-five hundred (2,500) persons per square mile and a total population of at least twenty-five thousand (25,000) persons, or
 - (c) within either an incorporated city or a census-defined place with a population density of one thousand (1,000) persons per square mile, unless there is a reasonable possibility that the project would have a significant effect on the environment due to unusual circumstances or due to the related or cumulative impacts of reasonably foreseeable projects in the vicinity of the project.
- D. Specific Requirements for Affordable Housing Projects Near Major Transit Stops (Public Resources Code Section 21159.24.) CEQA does not apply to a residential

project on an infill site within an urbanized area if all of the general requirements described above in Section A are satisfied and the following additional criteria are also met:

- (1) Within five (5) years prior to the date that the application for the project is deemed complete, community-level environmental review was certified or adopted. This exemption does not apply, however, if new information about the project or substantial changes regarding the circumstances surrounding the project become available after the community-level environmental review was certified or adopted;
- (2) The site of the project is not more than four (4) acres in total area;
- (3) The project does not contain more than one hundred (100) residential units;
- (4) The project meets either of the following criteria:
 - (a) At least 10% of the housing is sold to families of moderate income or rented to families of low income or at least 5% of the housing is rented to families of very low income, and the project developer has provided the City with sufficient legal commitments to ensure the continued availability and use of the housing units for very low, low-, and moderate-income households at monthly housing costs; or
 - (b) The project developer has paid or will pay in-lieu fees sufficient to pay for the development of the same number of units that would otherwise be sold or rented to families of moderate or very low income pursuant to subparagraph (a);
- (5) The project is within one-half mile of a major transit stop;
- (6) The project does not include any single-level building that exceeds 100,000 square feet; and
- (7) The project promotes higher density infill housing.
 - (a) A project with a density of at least twenty (20) units per acre shall be conclusively presumed to promote higher density infill housing.
 - (b) A project with a density of at least ten (10) units per acre and a density greater than the average density of the residential properties within one thousand five hundred (1,500) feet shall be presumed to promote higher density housing unless the preponderance of the evidence demonstrates otherwise.

(8) Exception.

(a) The Exemption for Affordable Housing Projects near Major Transit Stops does not apply if any one of the following criteria is met:

1. There is a reasonable possibility that the project will have a project-specific, significant effect on the environment due to unusual circumstances;
2. Since community-level environmental review was certified or adopted, substantial changes have occurred with respect to the circumstances under which the project is being undertaken, and those changes are related to the project; or
3. Since community-level environmental review was certified or adopted, new information regarding the circumstances under which the project is being undertaken has become available, and that new information is related to the project and was not known and could not have been known at the time of the community-level environmental review.

(b) If a project satisfies any one of the three criteria described above in Section D.(8)(a), the environmental effects of the project must be analyzed in an environmental impact report or a negative declaration. The environmental analysis shall be limited to the effects identified pursuant to Section D.(8)(a).

- E. Whenever the lead agency determines that a project is exempt from environmental review based on Public Resources Code section 21159.22 [Section 3.12B of these Guidelines], 21159.23 [Section 3.12C of these Guidelines], or 21159.24 [Section 3.12D of these Guidelines], staff and/or the proponent of the project shall file notice of the determination of exemption with the Office of Planning and Research within five working days after the approval of the project.

3.13 MINOR ALTERATIONS TO FLUORIDATE WATER UTILITIES.

Minor alterations to water utilities made for the purpose of complying with the fluoridation requirements of Health and Safety Code Sections 4026.7 and 4026.8 or regulations adopted thereunder are exempt.

3.14 BALLOT MEASURES.

The definition of project in the State Guidelines specifically excludes the submittal of proposals to a vote of the people of the state or of a particular community. This exception applies only to measures proposed in response to a petition drive initiated by voters. When a governing body makes a decision to put a measure on the ballot, that decision may be discretionary and is therefore subject to CEQA.

3.15 OTHER SPECIFIC EXEMPTIONS.

CEQA and the State Guidelines exempt many other specific activities, including early activities related to thermal power plants, ongoing projects, transportation improvement programs, family day care homes, congestion management programs, railroad grade separation projects, restriping of streets or highways to relieve traffic congestion, and hazardous or volatile liquid pipelines. Specific statutory exemptions are listed in the Public Resources Code, including Sections 21080 through 21080.33, and in State Guidelines, including Sections 15260 through 15285.

3.16 CATEGORICAL EXEMPTIONS.

The State Guidelines establish certain classes of categorical exemptions. These apply to classes of projects which have been legislatively determined not to have a significant effect on the environment and which, therefore, are exempt. Compliance with the requirements of CEQA or the preparation of environmental documents for any project which comes within one of these classes of categorical exemptions is not required. The classes of projects are briefly summarized below. (Reference to the State Guidelines for the full description of each exemption is recommended.)

The exemptions of Classes 3, 4, 5, 6 and 11 below are qualified in that such projects must be considered in light of the location of the project. A project that is ordinarily insignificant in its impact on the environment may, in a particularly sensitive environment, be significant. Therefore, these classes are considered to apply in all instances except where the project may impact on an environmental resource of hazardous or critical concern which is designated, precisely mapped, and officially adopted pursuant to law by federal, state or local agencies.

It is important to note that all exemptions for all classes are qualified to the extent that they are inapplicable when the cumulative impact of successive projects of the same type in the same place over time is significant or when there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

With the foregoing limitations in mind, the following classes of activity are exempt:

Class 1: Existing Facilities. Activities involving the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, equipment or other property of every kind, which activity involves negligible or no expansion of use beyond that existing at the time of the Commission's determination, including legislative schemes to regulate such facilities. The types of "existing facilities" itemized in Class 1 are not intended to be all-inclusive of the types of projects which might fall within Class 1. The key consideration is whether the project involves negligible or no expansion of an existing use. (State Guidelines Section 15301.)

Class 2: Replacement or Reconstruction. Replacement or reconstruction of existing facilities, structures, or other property where the new facility or structure will be located on the same site as the replaced or reconstructed facility or structure and will have substantially the same purpose and capacity as the replaced or reconstructed facility or structure. (State Guidelines Section 15302.)

Class 3: New Construction or Conversion of Small Structures. Construction of limited numbers of small, new facilities or structures and installation of small, new equipment or facilities in small structures, and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. This exemption includes structures built for both residential and commercial uses. (The maximum number of structures allowable under this exemption is set forth in State Guidelines Section 15303.)

Class 4: Minor Alterations to Land. Minor alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature or scenic trees. (State Guidelines Section 15304.)

Class 5: Minor Alterations in Land Use Limitations. Minor alterations in land use limitations in areas with an average slope of less than 20% which do not result in any changes in land use or density. (State Guidelines Section 15305.)

Class 6: Information Collection. Basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource. (State Guidelines Section 15306.)

Class 7: Actions by Regulatory Agencies for Protection of Natural Resources. Actions taken by regulatory agencies as authorized by state law or local ordinance to assure the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment. (State Guidelines Section 15307.)

Class 8: Actions By Regulatory Agencies for Protection of the Environment. Actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement or protection of the environment where the regulatory process involves procedures for protection of the environment. (State Guidelines Section 15308.)

Class 9: Inspection. Inspection activities, including, but not limited to, inquiries into the performance of an operation and examinations of the quality, health or safety of a project. (State Guidelines Section 15309.)

Class 10: Loans. Loans made by the Department of Veteran Affairs under the Veterans Farm and Home Purchase Act of 1943, mortgages for the purchase of existing structures where the loan will not be used for new construction and the purchase of such mortgages by financial institutions. (State Guidelines Section 15310.)

Class 11: Accessory Structures. Construction or placement of minor structures accessory to (appurtenant to) existing commercial, industrial, or institutional facilities, including, but not limited to, on-premise signs, small parking lots, and placement of seasonal or temporary use items such as lifeguard towers, mobile food units, portable restrooms or similar items in generally the same locations from time to time in publicly owned parks, stadiums or other facilities designed for public use. (State Guidelines Section 15311.)

Class 12: Surplus Government Property Sales. Sales of surplus government property, except for certain parcels of land located in an area of statewide, regional or areawide concern. (State Guidelines Section 15312.)

Class 13: Acquisition of Lands for Wildlife Conservation Purposes. Acquisition of lands for fish and wildlife conservation purposes, including habitat preservation, and for preserving access to public lands and waters where the purpose of the acquisition is to preserve the land in its natural condition. (State Guidelines Section 15313.)

Class 14: Minor Additions to Schools. Minor additions to existing schools within existing school grounds where the addition does not increase original student capacity by more than 25% or ten classrooms, whichever is less. The addition of portable classrooms is included in this exemption. (State Guidelines Section 15314.)

Class 15: Minor Land Divisions. Divisions of property in urbanized areas zoned for residential, commercial or industrial use into four or fewer parcels when the division is in conformance with the General Plan and zoning, no variances or exceptions are required, all services and access to the proposed parcels to local standards are available, the parcel was not involved in a division of a larger parcel within the previous 2 years, and the parcel does not have an average slope greater than 20 percent. (State Guidelines Section 15315.)

Class 16: Transfer of Ownership of Land in Order to Create Parks. Acquisition, sale, or other transfer of land in order to establish a park where the land is in a natural condition or contains historical or archaeological resources. CEQA will apply when a management plan is proposed that will change the area from its natural condition or cause substantial adverse change in the significance of the historic or archaeological resource. (State Guidelines Section 15316.)

Class 17: Open Space Contracts or Easements. Establishment of agricultural preserves, making and renewing of open space contracts under the Williamson Act or acceptance of easements or fee interests in order to maintain the open space character of the area. (The cancellation of such preserves, contracts, interests or easements is not included in this exemption.) (State Guidelines Section 15317.)

Class 18: Designation of Wilderness Areas. Designation of wilderness areas under the California Wilderness System. (State Guidelines Section 15318.)

Class 19: Annexations of Existing Facilities and Lots for Exempt Facilities.

- (a) Annexations to a city or special district of areas containing existing public or private structures developed to the density allowed by the current zoning or rezoning of either the gaining or losing governmental agency, whichever is more restrictive; provided, however, that the extension of utility services to the existing facilities would have a capacity to serve only the existing facilities.
- (b) Annexations of individual small parcels of the minimum size for facilities exempted by Class 3. (State Guidelines Section 15319.)

Class 20: Changes in Organization of Local Agencies. Changes in the organization of local governmental agencies where the changes do not change the geographical area in which previously existing powers are exercised. (State Guidelines Section 15320.)

Class 21: Enforcement Actions by Regulatory Agencies. Actions by the Commission to enforce or revoke a lease, permit, license, certificate or other entitlement for use issued, adopted or prescribed by the Commission or a law, general rule, standard or objective, administered or adopted by the Commission. (Construction activities undertaken by the Commission taking the enforcement or revocation action are not included in this exemption.) (State Guidelines Section 15321.)

Class 22: Educational or Training Programs Involving No Physical Changes. The adoption, alteration or termination of educational or training programs which involve no physical alteration in the area affected or which involve physical changes only in the interior of existing school or training structures. (State Guidelines Section 15322.)

Class 23: Normal Operations of Facilities for Public Gatherings. Continued or repeated normal operations of existing facilities for public gatherings for which the facilities were designed, where there is past history, of at least three years, of the facility being used for the same or similar purposes. Facilities included within this exemption include, but are not limited to race tracks, stadiums, convention centers, auditoriums, amphitheaters, planetariums, swimming pools and amusement parks. (State Guidelines Section 15323.)

Class 24: Regulation of Working Conditions. Actions taken by the Commission to regulate employee wages, hours of work or working conditions where there will be no demonstrable physical changes outside the place of work. (State Guidelines Section 15324.)

Class 25: Transfers of Ownership of Interest in Land to Preserve Existing Natural Conditions and Historical Resources. Transfers of ownership of interest in land in order to preserve open space, habitat, or historical resources. Examples include, but are not limited to, acquisition, sale, or other transfer of areas to preserve existing natural conditions, including plant or animal habitats, to allow continued agricultural use of the areas, to allow restoration of natural conditions, or to prevent encroachment of development into floodplains. (State Guidelines Section 15325.)

Class 26: Acquisition of Housing for Housing Assistance Programs. Actions by a redevelopment agency, housing authority or other public agency to implement an adopted Housing Assistance Plan by acquiring an interest in housing units. (State Guidelines Section 15326.)

Class 27: Leasing New Facilities. Leasing of a newly constructed or previously unoccupied privately owned facility by a local or state agency where the Commission determines, based on specific criteria, that the building is exempt. (State Guidelines Section 15327.)

Class 28: Small Hydroelectric Projects as Existing Facilities. Installation of certain small hydroelectric generating facilities in connection with existing dams, canals and pipelines. (State Guidelines Section 15328.)

Class 29: Cogeneration Projects at Existing Facilities. Installation of cogeneration equipment with a capacity of 50 megawatts or less at existing facilities meeting certain conditions. (State Guidelines Section 15329.)

Class 30: Minor Actions to Prevent, Minimize, Stabilize, Mitigate or Eliminate the Release or Threat of Release of Hazardous Waste or Hazardous Substances. Any minor cleanup actions costing \$1 million or less to prevent, minimize, stabilize, mitigate, or eliminate the release or threat of release of a hazardous waste or substance. (State Guidelines Section 15330.)

Class 31: Historical Resource Restoration/Rehabilitation. Maintenance, repairs, stabilization, rehabilitation, restoration, preservation, conservation, or reconstruction of historical resources in a manner consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings (1995), Weeks and Grimmer. (State Guidelines Section 15331.)

Class 32: Infill Development Projects. Projects characterized as infill development which meet the following conditions:

- (a) The project is consistent with applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.
- (b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.
- (c) The project has no value as habitat for endangered, rare or threatened species.
- (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.
- (e) The site can be adequately served by all required utilities and public services. (State Guidelines Section 15332.)

4. TIME LIMITATIONS

4.01 REVIEW OF PRIVATE PROJECT APPLICATIONS.

Staff shall determine whether the application for a private project is complete within thirty (30) days of receipt of the application. No application may be deemed incomplete for lack of a waiver of the time limitations in Guidelines Sections 4.03 and 4.04. Accepting an application as complete does not limit the authority of the Commission, acting as the Lead Agency, to require the applicant to submit additional information needed for environmental evaluation of the project. Requiring such additional information after the application is complete does not change the status of the application.

4.02 DETERMINATION OF ENVIRONMENTAL IMPACT.

Except as provided in Guidelines Sections 4.05 and 4.06, Staff's initial determination as to whether a Negative Declaration, Mitigated Negative Declaration or an EIR should be prepared shall be made within thirty (30) days from the date on which an application for a project is accepted as complete by the Commission. This period may be extended fifteen (15) days with consent of the applicant and the Commission.

4.03 COMPLETION AND ADOPTION OF NEGATIVE DECLARATION.

For private projects involving the issuance of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies, the Negative Declaration/Mitigated Negative Declaration shall be completed and approved within one hundred eighty (180) days from the date when the Commission accepted the application as complete. Completion of a Negative Declaration/Mitigated Negative Declaration within the 180-day period shall include completion of the Initial Study, public review and the preparation of documents for approval by the Commission.

In the event that compelling circumstances justify additional time and the project applicant consents thereto, Staff may provide for a reasonable extension of the time limit for completing and adopting the Negative Declaration/Mitigated Negative Declaration.

4.04 COMPLETION AND CERTIFICATION OF FINAL EIR.

For private projects, the Final EIR shall be completed and certified by the Commission within one year after the date when the Commission accepted the application as complete. In the event that compelling circumstances justify additional time, the Commission may provide a one-time extension up to ninety (90) days for completing and adopting the EIR, upon consent of the Commission and the project applicant.

4.05 PROJECTS SUBJECT TO THE PERMIT STREAMLINING ACT.

The Permit Streamlining Act requires agencies to make decisions on development project approvals within specified time limits. If a project is subject to the Act, the Commission cannot require the project applicant to submit the informational equivalent of an EIR or prove compliance with CEQA as a prerequisite to determining whether the project application is

complete. In addition, if requested by the project applicant, the Commission must begin processing the project application prior to final CEQA action, provided the information necessary to begin the process is available.

Under the Permit Streamlining Act, the Commission as Lead Agency must approve or disapprove the development project application within one hundred eighty (180) days from the date on which it certifies the EIR, or ninety (90) days if an extension for completing and certifying the EIR is granted (see Guidelines Section 4.04). If the Commission adopts a Negative Declaration/Mitigated Negative Declaration, or determines the development project is exempt from CEQA, it shall approve or disapprove the project application within sixty (60) days from the date on which it adopts the Negative Declaration/Mitigated Negative Declaration or determines that the project is exempt from CEQA.

Except for waivers of the time periods for preparing a joint Environmental Impact Report/Environmental Impact Statement (as outlined in Government Code Section 65951 and 65957), the Commission cannot require a waiver of the time limits specified in the Permit Streamlining Act as a condition of accepting or processing a development project application. In addition, the Commission cannot disapprove a development project application in order to comply with the time limits specified in the Permit Streamlining Act.

4.06 PROJECTS, OTHER THAN THOSE SUBJECT TO THE PERMIT STREAMLINING ACT, WITH SHORT TIME PERIODS FOR APPROVAL.

A few statutes require agencies to make decisions on project applications within time limits that are so short that review of the project under CEQA would be difficult. To enable the Commission as Lead Agency to comply with both the enabling statute and CEQA, the Commission shall deem a project application as not received for filing under the enabling statute until such time as the environmental documentation required by CEQA is complete. This section applies where all of the following conditions are met:

- (a) The enabling statute for a program, other than development projects under Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code, requires the Commission to take action on an application within a specified period of time of six (6) months or less;
- (b) The enabling statute provides that the project is approved by operation of law if the Commission fails to take any action within the specified time period; and
- (c) The project application involves the Commission's issuance of a lease, permit, license, certificate or other entitlement for use.

In any case, the environmental document shall be completed or certified and the decision on the application shall be made within the period established by the Permit Streamlining Act (Government Code Sections 65920, et seq.).

4.07 SUSPENSION OF TIME PERIODS.

An unreasonable delay by an applicant in meeting Commission requests necessary for the preparation of a Negative Declaration or an EIR shall suspend the running of the time periods described in Guidelines Sections 4.03 and 4.04 for the period of the unreasonable delay.

Alternately, the Commission may disapprove a project application where there is unreasonable delay in meeting requests. The Commission may also allow a renewed application to start at the same point in the process where the application was when it was disapproved.

5. INITIAL STUDY

5.01 PREPARATION OF INITIAL STUDY.

If the Commission determines that it is the Lead Agency for a project which is not exempt, the Commission shall prepare an Initial Study to ascertain whether the project may have a substantial adverse effect on the environment, regardless of whether the overall effect of the project is adverse or beneficial. All phases of project planning, implementation and operation must be considered in the Initial Study. An Initial Study may rely on expert opinion supported by facts, technical studies or other substantial evidence. However, an Initial Study is neither intended nor required to include the level of detail included in an EIR.

- (a) For Commission projects, the Initial Study shall be prepared by Staff or by private experts pursuant to contract with the Commission.
- (b) For private projects, the person or entity proposing to carry out the project shall submit all data and information as may be required by the Commission to determine whether the proposed project may have a significant effect on the environment. All costs incurred by the Commission in reviewing the data and information submitted, or in conducting its own investigation based upon such data and information, or in preparing an Initial Study for the project shall be borne by the person or entity proposing to carry out the project.

5.02 INFORMAL CONSULTATION WITH OTHER AGENCIES.

When more than one public agency will be involved in undertaking or approving a project, the Commission as Lead Agency shall consult with all Responsible and any Trustee Agencies. Such consultation shall be undertaken as part of the Initial Study process prior to determining whether an EIR, Mitigated Negative Declaration or Negative Declaration is required for the project.

This early consultation, which may be done quickly and informally, is designed to insure that the EIR, Negative Declaration or Mitigated Negative Declaration will reflect the concerns of all Responsible Agencies that will issue approvals for the project and all Trustee Agencies responsible for natural resources affected by the project. It may include consultation with other individuals or organizations with an interest in the project. The Office of Planning and Research, upon request of the Commission or a private project applicant, shall assist in identifying the various Responsible Agencies for a proposed project and ensure that the Responsible Agencies are notified regarding any early consultation. In the case of a project undertaken by a public agency, the Office of Planning and Research, upon request of the Commission, shall ensure that any Responsible Agency or public agency that has jurisdiction by law with respect to the project is notified regarding any early consultation.

If, during the early consultation process it is determined that the project will clearly have a significant effect on the environment, the Commission may immediately dispense with the Initial Study and determine that an EIR is required.

5.03 CONSULTATION WITH PRIVATE PROJECT APPLICANT.

During or immediately after preparation of an Initial Study for a private project, the Commission may consult with the applicant to determine if the applicant is willing to modify the project to reduce or avoid the significant effects identified in the Initial Study. If the project can be revised to avoid or mitigate effects to a level of insignificance and there is no substantial evidence before the Commission that the project, as revised, may have a significant effect on the environment, the Commission may prepare and adopt a Negative Declaration. If any significant effect may still occur despite alterations of the project, an EIR must be prepared.

5.04 SCOPING MEETINGS.

For a project of “statewide, regional or areawide significance,” the Commission shall hold at least one scoping meeting. The Commission shall provide notice of the scoping meeting to:

- (a) Any county or city that is within or borders on the Commission where the project is located;
- (b) Any responsible agency;
- (c) Any public agency that has jurisdiction by law over the project; and
- (d) Any organization of individuals who has filed a written request for the notice.

For the definition of projects of “statewide, regional or areawide significance,” refer to State Guidelines Section 15206.

For a project that may affect highways or other facilities under the jurisdiction of the State Department of Transportation, the Commission shall hold a scoping meeting if requested to do so by the Department of Transportation.

5.05 PURPOSES OF INITIAL STUDY.

The Initial Study shall be used to determine whether a Negative Declaration, Mitigated Negative Declaration or an EIR shall be prepared for a project. It provides written documentation of whether the Commission found evidence of significant adverse impacts which might occur. The purposes of an Initial Study are to:

- (a) Identify environmental impacts;
- (b) Enable an applicant or Lead Agency to modify a project, mitigating adverse impacts before an EIR is written;
- (c) Focus an EIR, if one is required, on potentially significant environmental effects;
- (d) Facilitate environmental assessment early in the design of a project;
- (e) Provide documentation of the factual basis for the finding in a Negative Declaration that a project will not have a significant effect on the environment;
- (f) Eliminate unnecessary EIRs; and
- (g) Determine whether a previously prepared EIR could be used for the project.

5.06 CONTENTS OF INITIAL STUDY.

An Initial Study shall contain in brief form:

- (a) A description of the project, including the location of the project. The project description must be consistent throughout the environmental review process;
- (b) An identification of the environmental setting;
- (c) An identification of environmental effects by use of a checklist, matrix, or other method provided that entries are briefly explained to show the evidence supporting the entries. The brief explanation may be through either a narrative or a reference to other information such as attached maps, photographs, or an earlier EIR or Negative Declaration. A reference to another document should include, if possible, a citation to the page or pages where the information is found;
- (d) A discussion of ways to mitigate any significant effects identified;
- (e) An examination of whether the project is compatible with existing zoning and local land use plans;
- (f) The name of the person or persons who prepared or participated in the Initial Study;
- (g) A summary of any comments regarding the project received from Responsible Agencies, Trustee Agencies or other persons; and
- (h) Identification of prior EIRs or environmental documents which could be used with the project.

5.07 USE OF A CHECKLIST INITIAL STUDY.

When properly completed, the Environmental Checklist (Form “J”) will meet the requirements of Guidelines Section 5.06 for private projects provided that the entries on the checklist are explained. For a Commission-initiated project, the requirements of Guidelines Section 5.06 will be met by use of the Environmental Checklist (Form “J”) and a separate attachment containing a description of the project, including its location and an identification of the environmental setting and summaries of any comments received regarding the project.

California courts have rejected the use of a bare, unsupplemented Initial Study checklist. An Initial Study must contain more than mere conclusions. It must disclose supporting data or evidence upon which the Commission relied in conducting the Study. The Commission shall augment checklists with supporting factual data and reference information sources when completing the forms. Explanation of all “potential impact” answers should be provided on attached sheets. For controversial projects, it is advisable to state briefly why “no” answers were checked. If practicable, attach an addendum listing commonly used reference material such as plans, traffic studies, air quality data and prior EIRs.

5.08 EVALUATING SIGNIFICANT ENVIRONMENTAL EFFECTS.

In evaluating the environmental significance of effects disclosed by the Initial Study, the Commission shall consider:

- (a) Whether the Initial Study and/or any comments received informally during consultations indicate that a fair argument can be made that the project may have a significant adverse

- environmental impact which cannot be mitigated to a level of insignificance. Even if a fair argument can be made to the contrary, an EIR should be prepared.
- (b) Whether both primary (direct) and secondary (indirect) consequences of the project were evaluated. Primary consequences are immediately related to the project, while secondary consequences are related more to the primary consequences than to the project itself. For example, secondary impacts upon the resources base, including land, air, water and energy use of an area, may result from population growth, a primary impact.
 - (c) Whether adverse social and economic changes will result from a physical change caused by the project. Adverse economic and social changes resulting from a project are not, in themselves, significant environmental effects. However, if such adverse changes cause physical changes in the environment, those consequences may be used as the basis for finding that the physical change is significant.
 - (d) Whether there is serious public controversy or disagreement among experts over the environmental effects of the project. However, controversy or disagreement alone shall not require preparation of an EIR in the absence of substantial evidence of significant effects.
 - (e) Whether the cumulative impact of the project is significant and whether the effects of the project are “cumulatively considerable” (as defined in Guidelines Section 10.10) when viewed in connection with the effects of past projects, current projects, and probable future projects.
 - (f) Whether the project may cause a substantial adverse change in the significance of a historical resource.

5.09 MANDATORY FINDINGS OF SIGNIFICANT EFFECT.

Whenever any of the conditions set forth below are found to exist, a finding that a project may have a significant effect on the environment shall be required:

- (a) The project has the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of major periods of California history or prehistory.
- (b) The project has the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals.
- (c) The project has possible environmental effects which are individually limited but cumulatively considerable. “Cumulatively considerable” means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past, current, and probable future projects as defined in Guidelines Section 10.10. That is, the Commission is required to determine whether the incremental impacts of a project are cumulatively considerable by evaluating them against the back-drop of the environmental effects of the other projects.
- (d) The environmental effects of a project will cause substantial adverse effects on humans either directly or indirectly.

5.10 MANDATORY PREPARATION OF AN EIR FOR WASTE BURNING PROJECTS.

The Commission, as Lead Agency, shall prepare or cause to be prepared, and certify the completion of, an EIR or, if appropriate, a modification, addendum, or supplement to an existing EIR for any project involving the burning of municipal wastes, hazardous waste or refuse-derived fuel, including, but not limited to, tires, if the project consists of any of the following:

- (a) The construction of a new facility.
- (b) The expansion of an existing hazardous waste burning facility which would increase its permitted capacity by more than ten percent (10%).
- (c) The issuance of a hazardous waste facilities permit to a land disposal facility, as defined in Guidelines Section 10.25.
- (d) The issuance of a hazardous waste facilities permit to an offsite large treatment facility, as defined in Guidelines Sections 10.26 and 10.38.

The Commission shall calculate the percentage of expansion for an existing facility by comparing the proposed facility capacity with either of the following which would be applicable:

- (a) The facility capacity authorized in the facility's hazardous waste facilities permit pursuant to Section 25200 of the Health and Safety Code, or its grant of interim status pursuant to Section 25200.5 of the Health and Safety Code, or the facility capacity authorized in any state or local agency permit allowing the construction or operation of the facility for the burning of hazardous waste granted before January 1, 1990.
- (b) The facility capacity authorized in the facility's original hazardous facilities permit, grant of interim status, or any state or local agency permit allowing the construction or operation of a facility for the burning of hazardous waste, granted on or after January 1, 1990.

The EIR requirement does not apply to any project which exclusively burns any of the following:

- (a) digester gas produced from manure or any other solid or semi-solid animal waste;
- (b) methane gas produced from a disposal site which is used only for the disposal of solid waste;
- (c) forest, agricultural, wood or other biomass wastes;
- (d) hazardous waste in an incineration unit that is transportable and which is either at a site for not longer than three years or is part of a remedial or removal action;
- (e) refinery waste burned in a flare on the site of generation;
- (f) methane gas produced at a municipal sewage treatment plant and burned in a flare;
- (g) hazardous waste, or hazardous waste as a supplemental fuel, as part of a research, development, or demonstration project which, consistent with the Resource Conservation and Recovery Act of 1976, has been determined to be innovative and experimental by the State Department of Health Services and which is limited in type and quantity of waste to that necessary to determine the efficacy and performance capabilities of the technology or process; provided, however, that any facility which operated as a research, development or demonstration project and for which an application is thereafter submitted for a hazardous waste facility permit for operation other than as a research, development or

- demonstration project shall be considered a new facility for the burning of hazardous waste, and therefore subject to EIR requirements;
- (h) soils contaminated only with petroleum fuels or the vapors from these soils;
 - (i) exclusively treats less than 3,000 pounds of hazardous waste per day in a thermal processing unit operated in the absence of open flame, and submits a worst-case health risk assessment of the technology to the State Department of Health Services for review and distribution to the interested public. This assessment shall be prepared in accordance with guidelines set forth in the Air Toxics Assessment Manual of the California Air Pollution Control Officers Association;
 - (j) less than 1,200 pounds of infectious waste per day, as defined in Section 25117.5 of the Health and Safety Code, on hospital sites;
 - (k) chemicals and fuels as part of firefighter training;
 - (l) exclusively conducts open burns of explosives subject to the requirements of the local or regional air pollution control district and in compliance with OSHA and Cal-OSHA regulations; or
 - (m) exclusively conducts onsite burning of less than 3,000 pounds per day of fumes directly from a manufacturing or commercial process.

Such projects are not exempt from the other requirements of CEQA, the State Guidelines, or these Local Guidelines. This section does not apply to any project over which the State Energy Resources Conservation and Development Commission has assumed jurisdiction per Health and Safety Code Section 25500, *et seq.* This section also does not apply to projects listed in the third paragraph of Guidelines Section 5.10 (c) and (d) if the facilities manage hazardous waste identified or listed on or after January 1, 1992.

5.11 DEVELOPMENT PURSUANT TO AN EXISTING COMMUNITY PLAN AND EIR.

During the Initial Study, Staff should determine whether the proposed project involves development consistent with an earlier zoning or community plan to accommodate a particular density for which an EIR has been certified. If an earlier EIR for the zoning or planning action has been certified, and if the proposed project is approval of a subdivision map or development, CEQA applies only to the extent the project raises environmental effects peculiar to the parcel which were not addressed in the earlier EIR. Off-site and cumulative effects not discussed in the general plan EIR must still be considered. Mitigation measures set out in the earlier EIR should be implemented at this stage.

Environmental effects shall not be considered peculiar to the parcel if uniformly applied development policies or standards have been previously adopted by a city or county with a finding based on substantial evidence that the policy or standard will substantially mitigate the environmental effect when applied to future projects. Any rezoning action consistent with the Community Plan shall be subject to exemption from CEQA in accordance with this section. "Community Plan" means part of an agency's general plan which (1) applies to a defined geographic portion of the total area included in the general plan, (2) complies with Article 5 (commencing with Section 65300) of Chapter 3 of Division 1 of Title 7 of the Government Code by referencing each of the mandatory elements specified in Government Code Section 65302, and (3) contains specific development policies adopted for the area in the Community Plan and

identifies measures to implement those policies, so that the policies which will apply to each parcel can be determined.

5.12 LAND USE POLICIES.

When a project will amend a general plan or another land use policy, the Initial Study must address how the change in policy and its expected direct and indirect effects will affect the environment. When the amendments constitute substantial changes in places that result in a significant impact on the environment, an EIR may be required.

5.13 EVALUATING IMPACTS ON HISTORICAL RESOURCES.

Projects that may cause a substantial adverse change in the significance of a historical resource, as defined in Guidelines Section 10.21, are projects that may have a significant effect on the environment, thus requiring consideration under CEQA. Particular attention and care should be given when considering such projects, especially projects involving the demolition of a historical resource, since such demolitions have been determined to cause a significant effect on the environment.

Substantial adverse change in the significance of a historical resource means physical demolition, destruction, relocation or alteration of the resource or its immediate surroundings, such that the significance of a historical resource would be materially impaired.

The significance of a historical resource is materially impaired when a project:

- (a) Demolishes or materially alters in an adverse manner those physical characteristics of a historical resource that convey its historical significance and that justify its inclusion in, or eligibility for, inclusion in the California Register of Historical Resources; or
- (b) Demolishes or materially alters in an adverse manner those physical characteristics that account for its inclusion in a local register of historical resources or its identification in a historical resources survey, unless the Lead Agency establishes by a preponderance of evidence that the resource is not historically or culturally significant; or
- (c) Demolishes or materially alters in an adverse manner those physical characteristics of a historical resource that convey its historical significance and that justify its eligibility for inclusion in the California Register of Historical Resources as determined by the Lead Agency for purposes of CEQA.

Generally, a project that follows either one of the following sets of standards and guidelines will be considered mitigated to a level of less than significance: (a) the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings; or (b) the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings (1995), Weeks and Grimmer.

In the event of an accidental discovery of a possible historical resource during construction of the project, the Commission may provide for the evaluation of the find by a qualified archaeologist or other professional. If the find is determined to be a historical resource, the Commission should take appropriate steps to implement appropriate avoidance or mitigation

measures. Work on non-affected portions of the project, as determined by the Commission, may continue during the process.

5.14 EVALUATING IMPACTS ON ARCHAEOLOGICAL SITES.

When a project will impact an archaeological site, the Commission shall first determine whether the site is a historical resource, as defined in Guidelines Section 10.21. If the archaeological site is a historical resource, it shall be treated and evaluated as such, and not as an archaeological resource. If the archaeological site does not meet the definition of a historical resource, but does meet the definition of a unique archaeological resource set forth in Section 21083.2 of the Public Resources Code, the site shall be treated in accordance with said provisions of the Public Resources Code. The time and cost limitations described in Section 21083.2(c-f) do not apply to surveys and site evaluation activities intended to determine whether the project location contains unique archaeological resources.

If the archaeological resource is neither a unique archaeological resource nor a historical resource, the effects of the project on those resources shall not be considered a significant effect on the environment. It shall be sufficient that both the resource and the effect on it are noted in the Initial Study or EIR, if one is prepared to address impacts on other resources, but they need not be considered further in the CEQA process.

In the event of an accidental discovery of a possible unique archaeological resource during construction of the project, the Commission may provide for the evaluation of the find by a qualified archaeologist. If the find is determined to be a unique archaeological resource, the Commission should take appropriate steps to implement appropriate avoidance or mitigation measures. Work on non-affected portions of the project, as determined by the Commission, may continue during the process.

When an initial study identifies the existence of, or the probable likelihood of, Native American human remains within the Project, the Commission shall comply with the provisions of State CEQA Guidelines Section 15064.5(d). In the event of an accidental discovery or recognition of any human remains in any location other than a dedicated cemetery, the Commission shall comply with the provisions of State CEQA Guidelines Section 15064.5(e).

5.15 ENVIRONMENTAL IMPACT ASSESSMENT.

The job of the Initial Study is to identify which environmental impacts may be significant. Based upon the Initial Study, Staff shall determine whether a proposed project may or will have a significant effect on the environment. Such determination shall be made in writing on the Environmental Impact Assessment Form (Form "C"). If Staff finds that a project will not have a significant effect on the environment, it shall recommend that a Negative Declaration be prepared and adopted by the decision making body. If Staff finds that a project may have a significant effect on the environment, but the effects can be mitigated to a level of insignificance, it shall recommend that a Mitigated Negative Declaration be prepared and adopted by the decision making body. If Staff finds that a project may have a significant effect on the environment, it shall recommend that an EIR be prepared and certified by the decision making body.

5.16 FINAL DETERMINATION.

The Commission shall have the final responsibility for determining whether an EIR, Negative Declaration or Mitigated Negative Declaration shall be required for any project. The Board of Director's determination shall be final and conclusive on all persons, including Responsible Agencies and Trustee Agencies, except as provided in Section 15050(c) of the State Guidelines.

6. NEGATIVE DECLARATION

6.01 DECISION TO PREPARE A NEGATIVE DECLARATION.

A Negative Declaration (Form “E”) shall be prepared for a project subject to CEQA when the Initial Study shows that there is no substantial evidence in light of the whole record that the project may have a significant or potentially significant adverse effect on the environment. (See Guidelines Sections 10.41 and 10.46.)

6.02 DECISION TO PREPARE A MITIGATED NEGATIVE DECLARATION.

A Mitigated Negative Declaration (Form “E”) shall be prepared for a project subject to CEQA when the Initial Study identifies potentially significant effects on the environment, but:

- (a) The project applicant has agreed to revise the project or the Commission can revise the project to avoid these significant effects or to mitigate the effects to a point where it is clear that no significant effects would occur and
- (b) There is no substantial evidence in light of the whole record before the Commission that the revised project may have a significant effect.

If an applicant proposes mitigation measures, the project plans must be revised to incorporate these mitigation measures before the proposed Negative Declaration is released for public review. It is insufficient to require an applicant to adopt mitigation measures after final adoption of the Negative Declaration or to state that mitigation measures will be recommended on the basis of a future study. The Commission must know the measures at the time the Negative Declaration is adopted in order for them to be evaluated and accepted as adequate mitigation. Evidence of agreement by the applicant to such mitigation should be in the record prior to public review. Except where noted, the procedural requirements for the preparation and approval of a Negative Declaration and Mitigated Negative Declaration are the same.

6.03 CONTRACTING FOR PREPARATION OF NEGATIVE DECLARATION.

The Commission, when acting as Lead Agency, is responsible for preparing all documents required pursuant to CEQA. The documents may be prepared by Staff or by private consultants pursuant to a contract with the Commission, but they must be the Commission’s product and reflect the independent judgment of the Commission.

6.04 NOTICE OF INTENT TO ADOPT A NEGATIVE DECLARATION OR MITIGATED NEGATIVE DECLARATION.

When based upon the Initial Study, it is recommended to the decision making body that a Negative Declaration or Mitigated Negative Declaration be adopted, a Notice of Intent to Adopt a Negative Declaration or Mitigated Negative Declaration (Form “D”) shall be provided to the public, to all Responsible Agencies and to every other public agency with jurisdiction by law over resources affected by the project at least twenty (20) days before the final adoption of the Negative Declaration or Mitigated Negative Declaration by the decision making body. The Notice of Intent to Adopt a Negative Declaration or Mitigated Negative Declaration shall be mailed to the last known name and address of all organizations and individuals who have

previously filed a written request with the Commission. A copy of the proposed Negative Declaration or Mitigated Negative Declaration and the Initial Study shall be attached to the Notice of Intent to Adopt that is sent to every Responsible Agency and Trustee Agency concerned with the project and every other public agency with jurisdiction by law over resources affected by the project. The Commission may charge a fee for this service, except to other public agencies. The Commission may require requests for notices to be renewed annually. If the documents are submitted to the State Clearinghouse for circulation, the public review period shall be at least as long as the period of review by the State Clearinghouse. (See 6.06.)

The Notice of Intent to Adopt a Negative Declaration or Mitigated Negative Declaration shall contain the following information:

- (a) The period during which comments shall be received.
- (b) The date, time and place of any public meetings or hearings on the proposed project.
- (c) A brief description of the proposed project and its location.
- (d) The address where copies of the proposed Negative Declaration or Mitigated Negative Declaration and all documents referenced in the proposed Negative Declaration or Mitigated Negative Declaration are available for review.
- (e) The Environmental Protection Agency (“EPA”) list on which the proposed project site is located, if applicable, and the corresponding information from the applicant’s statement. (See 2.04.)
- (f) The significant effects on the environment, if any, anticipated as a result of the proposed project.

The proposed Negative Declaration or Mitigated Negative Declaration and Initial Study must reflect the independent judgment of the Commission.

6.05 POSTING AND PUBLICATION OF NEGATIVE DECLARATION OR MITIGATED NEGATIVE DECLARATION.

The Commission shall have a copy of the Notice of Intent to Adopt, the Draft Negative Declaration or Mitigated Negative Declaration and the Initial Study posted at the Commission’s offices and made available for public inspection. The Notice must be provided either twenty (20) or thirty (30) days prior to final adoption of the Negative Declaration or Mitigated Negative Declaration.

The Notice must also be posted in the office of the Clerk in each county in which the Project is located and must remain posted for a minimum of twenty (20) days, unless otherwise required by law to be posted for thirty (30) days. The Clerk shall post the Notice within twenty-four (24) hours of receipt.

As stated in Guidelines Section 6.04, notice shall be given by mail to the last known name and address of all organizations and individuals who have previously requested such notice. In addition, it must be given by at least one of the following procedures:

- (a) Publication at least once in a newspaper of general circulation in the area affected by the proposed project. If more than one area will be affected, the notice shall be published in

the newspaper of largest circulation from among the newspapers of general circulation in those areas.

- (b) Posting of notice on and off site in the area where the project is to be located.
- (c) Direct mailing to owners and occupants of property contiguous to the project, as shown on the latest equalized assessment roll.

The Commission shall consider all comments received during the public review period for the Negative Declaration or Mitigated Negative Declaration. Comments submitted via email shall be treated as written comments for all purposes. Comments sent to the public agency via email are deemed received when they actually arrive in an email account of a staff person who has been designated or identified as the point of contact for a particular project.

Although the Commission is not required to respond in writing to comments it receives either during or after the public review period. However, the Commission may want to provide a written response to all comments if it will not delay action on the Negative Declaration or Mitigated Negative Declaration, since any comment received prior to final action on the Negative Declaration or Mitigated Negative Declaration can form the basis of a legal challenge. A written response which refutes the comment or adequately explains the Commission's action in light of the comment, will assist the Commission in defending against a legal challenge. The Commission shall notify any public agency which comments on a Negative Declaration or Mitigated Negative Declaration of the public hearing or hearings, if any, on the project for which the Negative Declaration or Mitigated Negative Declaration was prepared.

6.06 SUBMISSION OF NEGATIVE DECLARATION OR MITIGATED NEGATIVE DECLARATION TO STATE CLEARINGHOUSE.

A Negative Declaration or Mitigated Negative Declaration must be submitted to the State Clearinghouse for circulation in the following situations:

- (a) The Negative Declaration or Mitigated Negative Declaration is prepared by a Lead Agency that is a state agency.
- (b) The Negative Declaration or Mitigated Negative Declaration is prepared by a public agency where a state agency is a Responsible Agency, Trustee Agency, or otherwise has jurisdiction by law with respect to the project.
- (c) The Negative Declaration or Mitigated Negative Declaration is for a project identified in State Guidelines Section 15206 as being of statewide, regional, or areawide significance.

State Guidelines Section 15206 identifies the following types of projects as being of statewide, regional, or areawide significance and requiring submission to the State Clearinghouse for circulation:

- Projects which have the potential for causing significant environmental effects beyond the city or county where the project would be located, such as:
 - Residential development of more than 500 units.
 - Commercial projects employing more than 1,000 persons or covering more than 500,000 square feet of floor space.

- Office building projects employing more than 1,000 persons or covering more than 250,000 square feet of floor space.
- Hotel or motel development of more than 500 rooms.
- Industrial projects housing more than 1,000 persons, occupying more than 40 acres of land, or covering more than 650,000 square feet of floor area.
- Projects for the cancellation of a Williamson Act contract covering more than 100 acres.
- Projects in one of the following Environmentally Sensitive Areas:
 - Lake Tahoe Basin.
 - Santa Monica Mountains Zone.
 - Sacramento-San Joaquin River Delta.
 - Suisun Marsh.
 - Coastal Zone, as defined by the California Coastal Act.
 - Areas within one-quarter mile of a river designated as wild and scenic.
 - Areas within the jurisdiction of the San Francisco Bay Conservation and Development Commission.
- Projects which would affect sensitive wildlife habitats or the habitats of any rare, threatened, or endangered species.
- Projects which would interfere with water quality standards.
- Projects which would provide housing, jobs, or occupancy for 500 or more people within 10 miles of a nuclear power plant.

A Negative Declaration or Mitigated Negative Declaration may also be submitted to the State Clearinghouse for circulation if a state agency has special expertise with regard to the environmental impacts involved. When the Negative Declaration or Mitigated Negative Declaration is submitted to the State Clearinghouse for review, the public review period shall be at least thirty (30) days. When a Negative Declaration or Mitigated Negative Declaration is submitted to the State Clearinghouse, a Notice of Completion (Form "H") should be included as a cover sheet. A sufficient number of the documents must be sent to the State Clearinghouse for circulation. Staff should contact the State Clearinghouse to find out the correct number of printed copies required for circulation. In addition to the printed copies, a copy of the documents in electronic format shall be submitted on a diskette or by electronic mail transmission if available.

A shorter review period by the State Clearinghouse for a Negative Declaration or Mitigated Negative Declaration can be requested by the decision making body. The shortened review period shall not be less than twenty (20) days. Such a request must be made in writing by the Lead Agency to the Office of Planning and Research. The decision making body may designate by resolution or ordinance an individual authorized to request a shorter review period. Any approval of a shortened review period must be given prior to, and reflected in, the public notice. However, a shortened review period shall not be approved by the Office of Planning and Research for any proposed project of statewide, regional or areawide environmental significance, as defined by State Guidelines Section 15206.

6.07 SPECIAL NOTICE REQUIREMENTS FOR WASTE AND FUEL BURNING PROJECTS.

For any waste burning project, as defined in Guidelines Section 5.10, Notice of Intent (see Guidelines Section 6.04) shall be given to all organizations and individuals who have previously requested it and shall also be given by all three of the procedures listed in Guidelines Section 6.05. In addition, Notice shall be given by direct mailing to the owners and occupants of property within one-fourth mile of any parcel or parcels on which such a project is located.

These notice requirements apply only to those projects described in Guidelines Section 5.10. These notice requirements do not preclude the Commission from providing additional notice by other means if desired.

6.08 CONTENT OF NEGATIVE DECLARATION.

A Negative Declaration must be prepared directly by or under contract to the Commission and should generally resemble Form “E”. It shall contain the following information:

- (a) A brief description of the project proposed, including any commonly used name for the project, if any.
- (b) The location of the project and the name of the project proponent.
- (c) A finding that the project as proposed will not have a significant effect on the environment.
- (d) An attached copy of the Initial Study documenting reasons to support the finding.
- (e) For a Mitigated Negative Declaration, feasible mitigation measures included in the project to substantially lessen or avoid potentially significant effects, which must be fully enforceable through permit conditions, agreements, or other measures. Such permit conditions, agreements, and measures must be consistent with applicable constitutional requirements such as the “nexus” and “rough proportionality” standards established by case law.

6.09 ADOPTION OF NEGATIVE DECLARATION OR MITIGATED NEGATIVE DECLARATION.

Following the publication, posting or mailing of the Notice of Intent to Adopt a Negative Declaration or Mitigated Negative Declaration, but in no event sooner than twenty (20) days following the date of such publication, posting or mailing, the Negative Declaration or Mitigated Negative Declaration may be presented to the decision making body at a regular or special meeting. Prior to adoption, the Commission shall independently review and analyze the Negative Declaration or Mitigated Negative Declaration and find that the Negative Declaration or Mitigated Negative Declaration reflects the independent judgment of the Commission. If the decision making body finds that the project will not have a significant effect on the environment, it shall adopt the Negative Declaration or Mitigated Negative Declaration. When adopting the Negative Declaration or Mitigated Negative Declaration, the Commission shall specify the location and custodian of the documents or other material which constitute the record of proceedings upon which it based its decision.

If the decision making body finds that the proposed project may have a significant effect on the environment that cannot be mitigated or avoided, it shall order the preparation of a Draft

EIR and the filing of a Notice of Preparation of a Draft EIR. Recirculation should be considered if substantial new mitigation is added after public review (see Guidelines Section 6.12).

6.10 MITIGATION REPORTING OR MONITORING PROGRAM FOR MITIGATED NEGATIVE DECLARATION.

When adopting a Mitigated Negative Declaration pursuant to Guidelines Section 6.09, the Commission shall adopt a reporting or monitoring program to assure that mitigation measures which are required to mitigate or avoid significant effects on the environment will be fully enforceable through permit conditions, agreements, or other measures and implemented by the project proponent or other responsible party in a timely manner, in accordance with conditions of project approval. The Commission shall also specify the location and the custodian of the documents which constitute the record of proceedings upon which it based its decision. There is no requirement that the reporting or monitoring program be circulated for public review; however, the Commission may choose to circulate it for public comments along with the Negative Declaration. The mitigation measures required to mitigate or avoid significant effects on the environment must be adopted as conditions of project approval.

This reporting or monitoring program shall be designed to assure compliance during the implementation or construction of a project and shall otherwise comply with the requirements described in Guidelines Section 7.32. If a Responsible Agency or Trustee Agency has required that certain conditions be incorporated into the project, the Commission may request that agency to prepare and submit a proposed reporting or monitoring program. The Commission shall also require that prior to the close of the public review period for a Mitigated Negative Declaration (see Guidelines Section 6.04), the Responsible or Trustee Agency submit detailed performance objectives for mitigation measures, or refer the Commission to appropriate, readily available guidelines or reference documents. Any mitigation measures submitted to the Commission by a Responsible or Trustee Agency shall be limited to measures which mitigate impacts to resources which are within the Responsible or Trustee Agency's authority.

Local agencies have the authority to levy fees sufficient to pay for this program. Therefore, the Commission can charge the project proponent a fee to cover actual costs of program processing and implementation.

Transportation information resulting from the reporting or monitoring program required to be adopted by the Commission shall be submitted to the regional transportation planning agency where the project is located and to the Department of Transportation for a project statewide, regional or areawide significance according to State Guidelines section 15006. The transportation planning agency and the Department of Transportation are required by law to adopt guidelines for the submittal of these reporting or monitoring programs, so the Commission may wish to tailor its submittal to such guidelines.

6.11 APPROVAL OR DISAPPROVAL OF PROJECT.

At the time of adoption of a Negative Declaration or Mitigated Negative Declaration, the decision making body may consider the project for purposes of approval or disapproval. Prior to approving the project, the decision making body shall consider the Negative Declaration or

Mitigated Negative Declaration, together with any written comments received and considered during the public review period, and shall approve or disapprove the Negative Declaration or Mitigated Negative Declaration. In making a finding as to whether there is any substantial evidence that the project will have a significant effect on the environment, the factors listed in Guidelines Section 5.08 should be considered. (See Guidelines Section 7.30 for approval requirements for facilities which may emit hazardous air emissions near schools.)

6.12 RECIRCULATION OF A NEGATIVE DECLARATION OR MITIGATED NEGATIVE DECLARATION.

A Negative Declaration or Mitigated Negative Declaration must be recirculated when the document must be substantially revised after the public review period but prior to its adoption. A “substantial revision” is defined as a new and avoidable significant effect for which mitigation measures or project revisions must be added in order to reduce the effect to a level of insignificance. A “substantial revision” can also include when the Commission determines that the proposed mitigation measures or project revisions will not reduce the potential effects to less than significance and new measures or revisions must be required.

Recirculation is not required under the following circumstances:

- (a) Mitigation measures are replaced with equal or more effective measures, and the Commission makes a finding.
- (b) New project revisions are added in response to written or oral comments on the project’s effects identified in the proposed Negative Declaration or Mitigated Negative Declaration which are not new avoidable significant effects.
- (c) Measures or conditions of project approval are added after circulation of the Negative Declaration or Mitigated Negative Declaration which are not required by CEQA, which do not create new significant environmental effects and are not necessary to mitigate an avoidable significant effect.
- (d) New information is added to the Negative Declaration or Mitigated Declaration which merely clarifies, amplifies, or makes insignificant modifications to the Negative Declaration or Mitigated Negative Declaration.

If, after preparation of a Negative Declaration or Mitigated Negative Declaration, the Commission determines that the project requires an EIR, it shall circulate the Draft EIR for consultation and review and advise reviewers in writing that a proposed Negative Declaration or Mitigated Declaration had previously been circulated for the project.

6.13 NOTICE OF DETERMINATION ON A PROJECT FOR WHICH A PROPOSED NEGATIVE OR MITIGATED NEGATIVE DECLARATION HAS BEEN APPROVED.

Following consideration and approval of a project for which the Commission is Lead Agency, the decision making body shall order Staff to prepare and file a Notice of Determination (Form “F”) which shall contain the following:

- (a) An identification of the project including its common name where possible and its location;
- (b) A brief description of the project;

- (c) The date on which the Commission approved the project;
- (d) The determination of the Commission that the project will not have a significant effect on the environment;
- (e) A statement that a Negative Declaration or Mitigated Negative Declaration has been prepared pursuant to the provisions of CEQA; and
- (f) The address where a copy of the Negative Declaration or Mitigated Negative Declaration may be examined.

The Notice of Determination shall be filed with the Clerk of each county in which the project will be located within five (5) working days of project approval. The Commission is encouraged to make copies of filed notices available in electronic format on the Internet. Such electronic notices are in addition to the posting requirements of the CEQA Guidelines and the Public Resources Code. The Clerk must post the Notice of Determination within twenty-four (24) hours of receipt. The Notice must be posted in the office of the Clerk for a minimum of thirty (30) days. Thereafter, the Clerk shall return the notice to the Commission with a notation of the period it was posted. The Commission shall retain the notice for not less than nine (9) months. If the project requires discretionary approval from any State agency, the Notice of Determination shall also be filed with the Office of Planning and Research within five (5) working days of project approval along with proof of payment of the California Department of Fish and Game fee or Certificate of Fee Exemption (see Guidelines Section 6.17). Simultaneously with the filing of the Notice of Determination with the Clerk, Staff shall cause a copy of the Notice of Determination to be posted at the Commission's offices. When a request is made for a copy of the Notice prior to the date on which the Commission adopts the Negative Declaration, the copy must be mailed, first class postage prepaid, within five (5) days of the Commission's determination. If such a request is made following the Commission's determination, then the copy should be mailed in the same manner as soon as possible. The recipients of such documents may be charged a fee reasonably related to the cost of providing the service.

The filing and posting of a Notice of Determination with the Clerk, and, if necessary, with the Office of Planning and Research, usually starts a 30-day statute of limitations on court challenges to the approval under CEQA. When separate notices are filed for successive phases of the same overall project, the 30-day statute of limitation to challenge the subsequent phase begins to run when the second notice is filed. Failure to file the Notice results in a 180-day statute of limitations.

6.14 ADDENDUM TO NEGATIVE DECLARATION.

The Commission may prepare an addendum to an adopted Negative Declaration if only minor technical changes or additions are necessary. The Commission may also prepare an addendum to an adopted negative declaration when none of the conditions calling for a subsequent negative declaration have occurred. (See Guidelines Section 6.15 below.) An addendum need not be circulated for public review but can be attached to the adopted Negative Declaration. The Commission shall consider the addendum with the adopted Negative Declaration prior to project approval.

6.15 SUBSEQUENT NEGATIVE DECLARATION.

When a Negative Declaration has been adopted for a project, or when an EIR has been certified, a subsequent Negative Declaration or EIR must be prepared in the following instances:

- (a) Substantial changes are proposed in the project which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- (b) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- (c) New information of substantial importance which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified or the Negative Declaration was adopted which shows any of the following:
 - (1) The project will have one or more significant effects not discussed in the previous EIR or Negative Declaration;
 - (2) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - (3) Mitigation measure(s) or alternative(s) previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents declined to adopt the mitigation measure(s) or alternative(s); or
 - (4) Mitigation measure(s) or alternative(s) which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure(s) or alternative(s).

The Commission as Lead Agency would then determine whether a Subsequent EIR, Negative Declaration or addendum would be applicable. Subsequent Negative Declarations must be given the same notice and public review period as other Negative Declarations. The Subsequent Negative Declaration shall state where the previous document is available and can be reviewed.

6.16 PRIVATE PROJECT COSTS.

For private projects, the person or entity proposing to carry out the project shall bear all costs incurred by the Commission in preparing the Initial Study and in preparing and filing the Negative Declaration and Notice of Determination.

6.17 FILING FEES FOR PROJECTS WHICH AFFECT WILDLIFE RESOURCES.

At the time a Notice of Determination for a Negative Declaration is filed with the Clerk, a fee of \$1,250 shall be paid to the Clerk for projects which will adversely affect fish and wildlife resources. These fees are collected by the Clerk on behalf of the California Department of Fish and Game ("DFG").

Only one filing fee is required for each project unless the project is tiered or phased and separate environmental documents are prepared. For projects where a Lead Agency and Responsible Agencies file separate Notices of Determination, only the Lead Agency is required to pay the fee.

Note: The Clerk customarily charges a documentary handling fee for each project in addition to the filing fee specified above. Refer to the Index in the Staff Summary to help determine the correct amount.

For private projects, the Commission shall pass these costs on to the project applicant.

No fees are required for projects with a “de minimis” effect on fish and wildlife resources, or for certain projects undertaken by the DFG and implemented through a contract with a non-profit entity or local government agency. A project with a “de minimis” effect has no potential for adverse effect on fish and wildlife. This is an important exception. DFG considers the following projects as likely to have “de minimis” effects on fish and wildlife, depending on the specific facts of each project:

- (1) Projects which enhance fish and wildlife and their habitats and result in no accompanying adverse impacts to fish or wildlife;
- (2) Lot line adjustments;
- (3) Building remodeling;
- (4) Annexations;
- (5) Redevelopment on existing urban subdivisions with no wildlife habitat;
- (6) Infill of undeveloped urban lots;
- (7) Adoption of a General Plan, where CEQA requires a subsequent discretionary project approval before any physical change to natural habitat is permitted.

If the Commission believes that a project will have a “de minimis” effect on wildlife resources, it should file the Certificate of Fee Exemption attached as Form “L”. This form requires the Commission to set forth facts in support of the fee exemption. These facts should include: (1) the name and address of the project proponent; (2) a brief description of the project and its location; (3) a statement that an initial study has been prepared by the Commission to evaluate the project’s effects on wildlife resources, if any; (4) a declaration that there is no evidence before the Commission that the project will have any potential for adverse effect on wildlife resources; and (5) a declaration that the Commission has, on the basis of substantial evidence, “rebutted” the presumption of adverse effect contained in the regulations. A presumption of adverse effect occurs if the project has the potential for adverse effects on the fish and wildlife resources as listed on Form “L”. To rebut the presumption of adverse effect, the Commission should explain in the declaration why the project would not have an adverse impact on fish and wildlife and reference any supporting evidence. These findings should be made at the time of approval of the Negative Declaration and attached to Form “L” when submitted to the County. Two copies of this form must be filed with the Notice of Determination in order to obtain the fee exemption.

If the Commission believes that a project has been undertaken by the DFG, that the project’s costs are payable from one or more of the sources indicated in the Fish and Game Code,

and that the project is being implemented through a contract with a non-profit entity or a local government agency, the DFG filing does not apply. Since the DFG has not yet adopted regulations to govern this exemption, including a new "Certificate of Fee Exemption," the Commission may wish to use Form "L" and make appropriate modifications to reflect this exemption.

7. ENVIRONMENTAL IMPACT REPORT

7.01 DECISION TO PREPARE AN EIR.

An EIR shall be prepared whenever there is substantial evidence in light of the whole record which supports a fair argument that a project may have a significant effect on the environment. (See Guidelines Section 10.41 and 10.46.) The record may include the Initial Study or other documents or studies prepared to assess the project's environmental impacts.

7.02 CONTRACTING FOR PREPARATION OF EIRS.

If a Draft EIR, EIR or Focused EIR is prepared under a contract to the Commission, the contract must be executed within forty-five (45) days from the date on which the Commission sends a Notice of Preparation. The Commission may take longer to execute the contract if the project applicant and the Commission mutually agree to an extension of the 45-day time limit.

The Draft EIR, EIR or Focused EIR prepared under contract must be the Commission's product. Staff, together with such consultant help as may be required, shall independently review and analyze the Draft EIR, EIR or Focused EIR to verify its accuracy, objectivity and completeness prior to presenting it to the decision making body. The Draft EIR, EIR or Focused EIR made available for public review must reflect the independent judgment of the Commission. Staff may require such information and data from the person or entity proposing to carry out the project as it deems necessary for completion of the Draft EIR, EIR or Focused EIR.

7.03 NOTICE OF PREPARATION OF DRAFT EIR.

After Staff determines that an EIR will be required for a proposed project, the Commission as Lead Agency shall prepare and send a Notice of Preparation (Form "G") to each Responsible Agency and Trustee Agency involved with the project, as well as the Office of Planning and Research. When submitting the Notice of Preparation to the Office of Planning and Research, a Notice of Completion (Form "H") should be used as a cover sheet. Responsible and Trustee Agencies have thirty (30) days to respond to the Notice of Preparation. The Commission shall send copies of the Notice of Preparation by certified mail or any other method of transmittal which provides it with a record that the Notice was received. The Notice must also be posted in the office of the Clerk in each county in which the project is located for thirty (30) days. The Clerk shall post the Notice within twenty-four (24) hours of receipt.

At a minimum, the Notice of Preparation shall include:

- (a) A description of the project;
- (b) The location of the project indicated either on an attached map (preferably a copy of the USGS 15' or 7½' topographical map identified by quadrangle name) or by a street address in an urban area;
- (c) The probable environmental effects of the project;
- (d) The name and address of the consulting firm retained to prepare the Draft EIR, if applicable; and

- (e) The Environmental Protection Agency (“EPA”) list on which the proposed site is located, if applicable, and the corresponding information from the applicant’s statement. (See Guidelines Section 2.04.)

7.04 PREPARATION OF DRAFT EIR.

The Commission as Lead Agency is responsible for preparing a Draft EIR, and may begin preparation immediately without awaiting responses to the Notice of Preparation. However, information communicated to the Commission not later than thirty (30) days after receipt of the Commission’s Notice of Preparation shall be included in the Draft EIR.

7.05 CONSULTATION WITH OTHER AGENCIES AND PERSONS.

To expedite consultation in response to the Notice of Preparation, the Commission as Lead Agency, a Responsible Agency, or a project applicant may request a meeting among the agencies involved to assist the Commission in determining the scope and content of the environmental information that Responsible Agencies may require. The Commission must convene the meeting as soon as possible but no later than 30 days after the request. Prior to completion of the Draft EIR, the Commission shall consult with each Responsible Agency and any public agency which has jurisdiction by law over the project. The Commission shall also consult with any city or county which borders the project or within which the project is located, unless otherwise designated annually by agreement between the Commission and any other city or county. The Commission may also consult with any individual who has special expertise with respect to any environmental impacts involved with a project. The Commission may also consult directly with any person or organization it believes will be concerned with the environmental effects of the project including any interested individuals and organizations of which the Commission is reasonably aware. The purpose of this consultation is to “scope” the EIR’s range of analysis.

For a project of statewide, regional, or areawide significance as defined in State Guidelines Section 15206, the Commission shall hold at least one scoping meeting. Likewise, for a project that may affect highways or other facilities under the jurisdiction of the State Department of Transportation, the Commission shall hold a scoping meeting if requested to do so by the Department of Transportation. See Guidelines Section 5.04 for more information on these requirements.

A Responsible Agency or other public agency shall only make comments regarding those activities within its area of expertise or which are required to be carried out or approved by it. These comments must be supported by specific documentation. Any mitigation measures submitted to the Commission by a Responsible or Trustee Agency shall be limited to measures which mitigate impacts to resources which are within the Responsible or Trustee Agency’s authority.

For projects where federal involvement might require preparation of an Environmental Impact Statement (“EIS”) under the National Environmental Policy Act (“NEPA”), the Commission as Lead Agency shall consult with the appropriate federal agencies as provided in Section 15110 and Sections 15220- 15228 of the State Guidelines. In addition, the City shall

notify the appropriate federal agencies regarding any scoping meetings for proposed projects that require preparation of an EIS.

7.06 EARLY CONSULTATION ON PROJECTS INVOLVING PERMIT ISSUANCE.

Where the project involves issuance of a lease, permit, license, certificate or other entitlement for use by one or more public agencies, the Commission, upon request of the applicant, shall meet with the applicant prior to the filing of the application regarding the range of actions, potential alternatives, mitigation measures and significant effects to be analyzed in depth in the EIR. The Commission may also consult with concerned persons identified by the applicant and persons who have made written requests to be consulted. Such requests must be made not later than thirty (30) days after the Commission's decision to prepare an EIR.

7.07 CONSULTATION WITH WATER AGENCIES REGARDING LARGE DEVELOPMENT PROJECTS.

This section applies only when a project results in a net increase in population density or building intensity and involves one of the following: (a) over 500 homes; (b) shopping centers or businesses with over 1,000 employees or 500,000 square feet of floor space; (c) commercial office buildings with over 1,000 employees or 250,000 square feet of floor space; (d) hotels or motels with more than 500 rooms; (e) industrial, manufacturing or processing plants which will house more than 1,000 persons, occupy more than 40 acres of land or have more than 650,000 square feet of floor space; or (f) mixed-use projects that would demand at least as much water as a 500 unit dwelling project. The project must also involve a new specific plan or an amendment to the land use element of an Commission's general plan. If the project meets these requirements, the Commission must consult with the public water system which will supply the project to determine whether it can adequately supply the water needed for the project. For complete information on these requirements, consult Public Resources Code Section 21151.9 and Water Code Sections 10910 through 10915.

7.08 AIRPORT LAND USE PLAN.

When the Commission prepares an EIR for a project within the boundaries of a comprehensive airport land use plan or, if such a plan has not been adopted for a project within 2 nautical miles of a public airport or public use airport, the Commission shall utilize the Airport Land Use Planning Handbook published by Caltrans' Division of Aeronautics to assist in the preparation of the EIR relative to potential airport or related safety hazards and noise problems.

7.09 GENERAL ASPECTS OF AN EIR.

Both a Draft and Final EIR must contain the information outlined in Guidelines Section 7.13. Each element must be covered, and when elements are not separated into distinct sections, the document must state where in the document each element is covered.

The body of the EIR shall include summarized technical data, maps, diagrams and similar relevant information. Highly technical and specialized analyses and data should be included in appendices. Appendices may be prepared in separate volumes, but must be equally available to the public for examination. All documents used in preparation of the EIR must be referenced.

An EIR shall not include “trade secrets,” locations of archaeological sites and sacred lands, or any other information subject to the disclosure restrictions of the Public Records Act (Government Code Section 6250, et seq.).

The EIR should discuss environmental effects in proportion to their severity and probability of occurrence. Effects dismissed in the Initial Study as clearly insignificant and unlikely to occur need not be discussed.

The Initial Study should be used to focus the EIR so that the EIR identifies and discusses only the specific environmental problems or aspects of the project which have been identified as potentially significant or important. A copy of the Initial Study shall be attached to the EIR to provide a basis for limiting the impacts discussed.

The EIR shall contain a statement briefly indicating the reason for determining that various effects of a project that could possibly be considered significant were not found to be significant and consequently were not discussed in detail in the EIR. The Commission should also note any conclusion by it that a particular impact is too speculative for evaluation.

The EIR should omit unnecessary descriptions of projects and emphasize feasible mitigation measures and alternatives to projects.

7.10 USE OF REGISTERED CONSULTANTS IN PREPARING EIRS.

An EIR is not a technical document that can be prepared only by a registered consultant or professional. However, state statutes may provide that only registered professionals can prepare certain technical studies which will be used in or which will control the detailed design, construction, or operation of the proposed project and which will be prepared in support of an EIR.

7.11 INCORPORATION BY REFERENCE.

An EIR may incorporate by reference all or portions of another document which is a matter of public record or is generally available to the public. Any incorporated document shall be considered to be set forth in full as part of the text of the EIR. Where part of another document is incorporated by reference, that document shall be made available to the public for inspection at the Commission’s offices. The EIR shall state where incorporated documents will be available for inspection.

Where an EIR uses incorporation by reference, the incorporated part of the referenced document shall be briefly summarized where possible, or briefly described if the data or information cannot be summarized. When information from an EIR that has previously been reviewed through the state review system (“State Clearinghouse”) is incorporated by the Commission, the state identification number of the incorporated document should be included in the summary or text of the EIR.

7.12 STANDARDS FOR ADEQUACY OF AN EIR.

An EIR should be prepared with a sufficient degree of analysis to provide decision makers with information which enables them to make a decision which takes into account the environmental consequences of the project. The evaluation of environmental effects need not be exhaustive, but must be within the scope of what is reasonably feasible. The EIR should be written and presented in such a way that it can be understood by governmental decision makers and members of the public. A good faith effort at completeness is necessary. The adequacy of an EIR is assessed in terms of what is reasonable in light of factors such as the magnitude of the project at issue, the severity of its likely environmental impacts, and the geographic scope of the project. CEQA does not require a Lead Agency to conduct every test or perform all research, study, and experimentation recommended or demanded by commentors.

There is no need to unreasonably delay adoption of an EIR in order to include results of studies in progress, even if those studies will shed some additional light on subjects related to the project.

7.13 FORM AND CONTENT OF EIR.

The text of the EIR should normally be less than 150 pages. For proposals of unusual scope or complexity, the EIR should normally be less than 300 pages. The required contents of an EIR are set forth in Sections 15122 through 15132 of the State Guidelines. Briefly summarizing each of those requirements, an EIR shall contain:

- (a) A table of contents or an index.
- (b) A brief summary of the proposed project and its environmental impacts.
- (c) A description of the proposed project, including its underlying purpose and a list of permit and other approvals required to implement the project. (See Guidelines Section 7.17 regarding analysis of future project expansion.)
- (d) A description of the project's physical environmental conditions from both a local and regional perspective at the time the Notice of Preparation is published, or if no Notice of Preparation is published, at the time environmental analysis begins. (State Guidelines Section 15125.) This environmental setting will normally constitute the baseline physical conditions by which the Commission determines whether an impact is significant. However, the Commission may choose any baseline that is appropriate as long as the Commission's choice of baseline is supported by substantial evidence.
- (e) A discussion of any inconsistencies between the proposed project and applicable general and regional plans.
- (f) A description of the direct and indirect significant environmental impacts of the proposed project explaining which, if any, can be avoided or mitigated to a level of insignificance, indicating reasons that various possible significant effects were determined not to be significant and denoting any significant effects which are unavoidable or could not be mitigated to a level of insignificance. Direct and indirect significant effects shall be clearly identified and described, giving due consideration to both short-term and long-term effects.
- (g) An analysis of a range of alternatives to the proposed project which could feasibly attain the project's objectives as discussed in Guidelines Section 7.16.

- (h) A description of any significant irreversible environmental changes which would be involved in the proposed action should it be implemented if, and only if, the EIR is being prepared in connection with:
 - (1) The adoption, amendment, or enactment of a plan, policy, or ordinance of a public agency;
 - (2) The adoption by a Local Agency Formation Commission of a resolution making determinations; or
 - (3) A project which will be subject to the requirement for preparing an Environmental Impact Statement pursuant to the National Environmental Policy Act.
- (i) An analysis of the growth-inducing impacts of the proposed action. The discussion should include ways in which the project could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment.
- (j) A discussion of any significant, reasonably anticipated future developments and the cumulative effects of all proposed and anticipated action as discussed in Guidelines Section 7.17.
- (k) In certain situations, a regional analysis should be completed for certain impacts, such as air quality.
- (l) A discussion of any economic or social effects, to the extent that they cause or may be used to determine significant environmental impacts.
- (m) A statement briefly indicating the reasons that various possible significant effects of a project were determined not to be significant and, therefore, were not discussed in the EIR.
- (n) The identity of all federal, state or local agencies or other organizations and private individuals consulted in preparing the EIR, and the identity of the persons, firm or agency preparing the EIR, by contract or other authorization. To the fullest extent possible, the Commission should integrate CEQA review with these related environmental review and consultation requirements.
- (o) A discussion of those potential effects of the proposed project on the environment which the Commission has determined are or may be significant. The discussion on other effects may be limited to a brief explanation as to why those effects are not potentially significant.
- (p) A description of feasible measures, as set forth in Guidelines Section 7.15, which could minimize significant adverse impacts.

7.14 ANALYSIS OF CUMULATIVE IMPACTS.

An EIR must discuss cumulative impacts when the project's incremental effect is "cumulatively considerable" as defined in Guidelines Section 10.10. Where the Commission is examining a project with an incremental effect that is not "cumulatively considerable," it need not consider that effect significant, but must briefly describe the basis for this conclusion. A project's contribution is less than cumulatively considerable if the project is required to implement or fund its fair share of a mitigation measure designed to alleviate the cumulative impact. The Commission must identify facts and analysis supporting its conclusion that the cumulative impact is less than significant.

- (a) A cumulative impact consists of an impact which is created as a result of the combination of the project evaluated in the EIR together with other projects causing related impacts. An EIR should not discuss impacts which do not result in part from the project evaluated in the EIR.
- (b) The discussion of cumulative impacts in an EIR must focus on the cumulative impact to which the identified other projects contribute, rather than the attributes of other projects which do not contribute to the cumulative impact. The discussion of significant cumulative impacts must meet either of the following elements:
 - (1) A list of past, present, and probable future projects causing related or cumulative impacts including, if necessary, those projects outside the control of the Commission; or
 - (2) A summary of projections contained in an adopted general plan or related planning document, or in a prior environmental document which has been adopted or certified, which described or evaluated regional or area wide conditions contributing to the cumulative impact.
- (c) When utilizing a list, as suggested above, factors to consider when determining whether to include a related project should include the nature of each environmental resource being examined and the location and type of project. Location may be important, for example, when water quality impacts are involved since projects outside the watershed would probably not contribute to a cumulative effect. Project type may be important, for example, when the impact is specialized, such as a particular air pollutant or mode of traffic.
- (d) The Commission should define the geographic scope of the area affected by the cumulative effect and provide a reasonable explanation for the geographic limitation used.
- (e) A cumulative impacts discussion contained in previously certified EIRs may be incorporated by reference pursuant to the provisions for tiering and program EIRs.

7.15 ANALYSIS OF MITIGATION MEASURES.

The discussion of mitigation measures in an EIR must distinguish between measures proposed by project proponents and other measures proposed by Lead, Responsible or Trust Agencies. This discussion shall identify mitigation measures for each significant environmental effect identified in the EIR.

Where several measures are available to mitigate an impact, each should be disclosed and the basis for selecting a particular measure should be identified. Formulation of mitigation measures should not be deferred until some future time. However, measures may specify performance standards which would mitigate the significant effects of the project and which may be accomplished in more than one specified way.

If a mitigation measure would cause one or more significant effects in addition to those that would be caused by the project as proposed, the effects of the mitigation measure shall be disclosed but in less detail than the significant effects of the project itself.

If a project includes a housing development, the Commission may not reduce the project's proposed number of housing units as a mitigation measure or project alternative if the Commission determines that there is another feasible specific mitigation measure or project alternative that would provide a comparable level of mitigation without reducing the number of housing units.

Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments. In the case of the adoption of a plan, policy, regulating, or other public project, mitigation measures can be incorporated into the plan, policy, regulation, or project design. Mitigation measures must also be consistent with all applicable constitutional requirements such as the "nexus" and "rough proportionality" standards.

Where maintenance, repair, stabilization, rehabilitation, restoration, preservation, conservation or reconstruction of the historical resource will be conducted in a manner consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings (1995), Weeks and Grimmer, the project's impact on the historical resource shall generally be considered mitigated below a level of significance and thus is not significant.

The Commission should, whenever feasible, seek to avoid damaging effects on any historical resource of an archaeological nature. The following factors must be considered and discussed in an EIR for a project involving such an archaeological site:

- (a) Preservation in place is the preferred manner of mitigating impacts to archaeological sites.
- (b) Preservation in place may be accomplished by, but is not limited to, the following:
 - Planning construction to avoid archaeological sites;
 - Incorporation of sites within parks, green space, or other open spaces;
 - Covering the archaeological sites with a layer of chemically stable soil before building tennis courts, parking lots, or similar facilities on the site;
 - Deeding the site into a permanent conservation easement.

When data recovery through excavation is the only feasible mitigation, a data recovery plan, which makes provision for adequately recovering the scientifically consequential information from and about the historical resource, shall be prepared and adopted prior to excavation. Such studies must be deposited with the California Historical Resources Regional Information Center.

Data recovery shall not be required for a historical resource if the Commission determines that existing testing or studies have adequately recovered the scientifically consequential information from and about the archaeological or historical resource, provided that the determination is documented in the EIR and that the studies are deposited with the California Historical Resources Regional Information Center.

7.16 ANALYSIS OF ALTERNATIVES IN AN EIR.

The alternatives analysis must describe and evaluate the comparative merits of a range of reasonable alternatives to the project or to the location of the project which would feasibly attain most of the basic objectives of the project, but which would avoid or substantially lessen any of the significant effects of the project. An EIR need not consider every conceivable alternative to a project, and it need not consider alternatives which are infeasible. Rather, it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation.

Purpose of the Alternatives Analysis: An EIR must identify ways to mitigate or avoid the significant effects that a project may have on the environment. For this reason, a discussion of alternatives must focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effect of the project, even if these alternatives would impede to some degree the attainment of the project objectives or would be more costly.

Selection of a Range of Reasonable Alternatives: The range of potential alternatives to the proposed project shall include those that could feasibly accomplish most of the basic purposes of the project and could avoid or substantially lessen one or more of the significant effects, even if those alternatives would be more costly or would impede to some degree the attainment of the project's objectives. The EIR should briefly describe the rationale for selecting the alternatives to be discussed. The EIR should also identify any alternatives that were considered by the Commission and rejected as infeasible during the scoping process, and briefly explain the reasons for rejection. Additional information explaining the choice of alternatives should be included in the administrative record. Among the factors that may be used to eliminate alternatives from detailed consideration in an EIR are: (a) failure to meet most of the basic project objectives; (b) infeasibility; or (c) inability to avoid significant environmental impacts.

Evaluation of Alternatives: The EIR shall include sufficient information about each alternative to allow meaningful evaluation, analysis and comparison with the proposed project. A matrix displaying the major characteristics and significant environmental effects of each alternative may be used to summarize the comparison. If an alternative would cause one or more significant effects in addition to those that would be caused by the project as proposed, the significant effects of the alternative shall be discussed but in less detail than the significant effects of the project as proposed.

The Rule of Reason: The range of alternatives required in an EIR is governed by a "rule of reason" which courts have held means that an alternatives discussion must be reasonable in scope and content. Therefore, the EIR must set forth only those alternatives necessary to permit public participation, informed decision making, and a reasoned choice. The alternatives shall be limited to ones that would avoid or substantially lessen any of the significant effects of the project. Of those alternatives, the EIR need examine in detail only the ones the Commission determines could feasibly attain most of the basic objectives of the project. An EIR need not consider an alternative whose effect cannot be reasonably ascertained and whose implementation is remote and speculative.

Feasibility of Alternatives: The factors that may be taken into account when addressing the feasibility of alternatives include: site suitability; economic viability; availability of infrastructure; general plan consistency; other plans or regulatory limitations; jurisdictional boundaries (projects with a regionally significant impact should consider the regional context); and whether the proponent already owns the alternative site or can reasonably acquire, control or otherwise have access to the site. No one factor establishes a fixed limit on the scope of reasonable alternatives.

Alternative Locations: The first step in the alternative location analysis is to determine whether any of the significant effects of the project could be avoided or substantially lessened by putting the project in another location. This is the key question in this analysis. Only locations that would avoid or substantially lessen any of the significant effects of the project need be considered for inclusion in the EIR.

The second step in this analysis is to determine whether any of the alternative locations are feasible. If the Commission concludes that no feasible alternative locations exist, it must disclose its reasons, and it should include them in the EIR. Where a previous document has sufficiently analyzed a range of reasonable alternative locations and environmental impacts for a project with the same basic purpose, the Commission should review the previous document. To the extent the circumstances have remained substantially the same with respect to an alternative, the EIR may rely on the previous document to help it assess the feasibility of the potential project alternative.

The “No Project” Alternative: The specific alternative of “no project” must be evaluated along with its impacts. The purpose of describing and analyzing the no project alternative is to allow decision makers to compare the impacts of approving the proposed project with the impacts of not approving the proposed project. The no project alternative analysis, therefore, is normally not the baseline for determining whether the proposed project’s environmental impacts may be significant. The no project alternative will be the baseline only if it is identical to the existing environmental setting and the Commission has chosen the existing environmental setting as the baseline.

A discussion of the “no project” alternative should proceed along one of two lines:

- (a) When the project is the revision of an existing land use or regulatory plan, policy or ongoing operation, the “no project” alternative will be the continuation of the existing plan, policy or operation into the future. Typically, this is a situation where other projects initiated under the existing plan will continue while the new plan is developed. Thus, the projected impacts of the proposed plan or alternative plans would be compared to the impacts that would occur under the existing plan.
- (b) If the project is other than a land use or regulatory plan, for example a development project on identifiable property, the “no project” alternative is the circumstance under which the project does not proceed. This discussion would compare the environmental effects of the property remaining in its existing state against environmental effects which would occur if the project is approved. If disapproval of the project would result in predictable actions by others, such as the proposal of some other project, this “no project” consequence should be discussed.

After defining the no project alternative, the Commission should proceed to analyze the impacts of the no project alternative by projecting what would reasonably be expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services. If the “no project” alternative is the environmentally superior alternative, the EIR must also identify another environmentally superior alternative among the remaining alternatives.

Remote or Speculative Alternatives: An EIR need not consider an alternative whose effect cannot be reasonably ascertained and whose implementation is remote and speculative.

7.17 ANALYSIS OF FUTURE EXPANSION.

An EIR must include an analysis of the environmental effects of future expansion (or other similar future modifications) if there is credible and substantial evidence that:

- (a) The future expansion or action is a reasonably foreseeable consequence of the initial project; and
- (b) The future expansion or action is likely to change the scope or nature of the initial project or its environmental effects.

Absent these two circumstances, future expansion of a project need not be discussed. CEQA does not require speculative discussion of future development which is unspecific or uncertain. However, if future action is not considered now, it must be considered and environmentally evaluated before it is actually implemented.

7.18 NOTICE OF COMPLETION OF DRAFT EIR.

Upon completion of a Draft EIR, Staff shall file a Notice of Completion (Form “H”) with the Office of Planning and Research in a printed hard copy or in electronic form on a diskette or by electronic mail transmission. The Commission is encouraged to make copies of filed notices available in electronic format on the Internet. Such electronic postings are in addition to the procedures required by the CEQA Guidelines and the Public Resources Code. The Notice shall contain a brief description of the proposed project, the location of the proposed project, current land use, development type and project issues discussed in the EIR.

The Commission shall provide public notice of the completion of a Draft EIR at the same time it sends a Notice of Completion to the Office of Planning and Research. The Notice of Availability of Draft EIR (Form “K”) shall specify the period during which comments will be received on the Draft EIR, the date, time and place of any public hearings on the proposed project, a brief description of the project and its location, the significant effects on the environment, if any, anticipated as a result of the project, and the address where copies of the Draft EIR and all documents referenced in the Draft EIR are available for review. Public agencies are encouraged to make copies of filed Notices of Completion available in electronic format on the Internet.

Notice shall be given to the last known name and address of all organizations and individuals who have previously requested it. In addition, notice shall be given by at least one of the following procedures:

- (a) Publication at least once in a newspaper of general circulation in the area affected by the proposed project. If more than one area will be affected, the notice shall be published in the newspaper of largest circulation from among the newspapers of general circulation in those areas.
- (b) Posting of notice on and off site in the area where the project is to be located.
- (c) Direct mailing to owners and occupants of property contiguous to the project, as identified on the latest equalized assessment roll.

The Notice shall be posted in the office of the Clerk in each county in which the project is located for a period of thirty (30) days. The Clerk must post the Notice within twenty-four (24) hours of receipt. Notice shall be mailed to any person who has filed a written request with the Commission. The Commission may require these requests to be renewed annually and may charge a fee for the reasonable cost of providing this service. A project will not be invalidated due to a failure to send a requested notice provided there has been substantial compliance with these notice provisions.

Copies of the Draft EIR shall also be made available at the Commission office for review by members of the general public. Any person obtaining a copy of the Draft EIR shall reimburse the Commission for the actual cost of its reproduction. Copies of the Draft EIR should also be furnished to appropriate public library systems.

7.19 SUBMISSION OF DRAFT EIR TO STATE CLEARINGHOUSE.

A Draft EIR must be submitted to the State Clearinghouse for review by state agencies in the following situations:

- (a) The Draft EIR is prepared by a Lead Agency which is a state agency.
- (b) The Draft EIR is prepared by a public agency where a state agency is a Responsible Agency, Trustee Agency, or otherwise has jurisdiction by law with respect to the project.
- (c) The Draft EIR is for a project identified in State Guidelines Section 15206 as being of statewide, regional, or areawide significance.

State Guidelines Section 15206 identifies the following types of projects as being of statewide, regional, or areawide significance and requiring submission to the State Clearinghouse for circulation:

- General plans, elements, or amendments for which an EIR was prepared.
- Projects which have the potential for causing significant environmental effects beyond the city or county where the project would be located, such as:
 - Residential development of more than 500 units.
 - Commercial projects employing more than 1,000 persons or covering more than 500,000 square feet of floor space.
 - Office building projects employing more than 1,000 persons or covering more than 250,000 square feet of floor space.
 - Hotel or motel development of more than 500 rooms.
 - Industrial projects housing more than 1,000 persons, occupying more than 40 acres of land, or covering more than 650,000 square feet of floor area.

- Projects for the cancellation of a Williamson Act contract covering more than 100 acres.
- Projects in one of the following Environmentally Sensitive Areas:
 - Lake Tahoe Basin.
 - Santa Monica Mountains Zone.
 - Sacramento-San Joaquin River Delta.
 - Suisun Marsh.
 - Coastal Zone, as defined by the California Coastal Act.
 - Areas within one-quarter mile of a river designated as wild and scenic.
 - Areas within the jurisdiction of the San Francisco Bay Conservation and Development Commission.
- Projects which would affect sensitive wildlife habitats or the habitats of any rare, threatened, or endangered species.
- Projects which would interfere with water quality standards.
- Projects which would provide housing, jobs, or occupancy for 500 or more people within 10 miles of a nuclear power plant.

A Draft EIR may be submitted to the State Clearinghouse where a state agency has special expertise with regard to the environmental impacts involved.

Where the Draft EIR will be reviewed through the State review process handled by the State Clearinghouse, use a Notice of Completion (Form "H") as a cover sheet. A sufficient number of copies of the documents must be sent to the State Clearinghouse for circulation. Staff should contact the State Clearinghouse to find out the correct number of printed copies required for circulation. In addition to the printed copies, a copy of the documents in electronic format shall be submitted on a diskette or by electronic mail transmission if available.

7.20 SPECIAL NOTICE REQUIREMENTS FOR WASTE AND FUEL BURNING PROJECTS.

For any waste burning project, as defined in Guidelines Section 5.10, Notice of Completion shall be given to all organizations and individuals who have previously requested notice. In addition, Notice shall be given by direct mailing to the owners and occupants of property within one-fourth mile of any parcel or parcels on which such a project is located.

7.21 REVIEW OF DRAFT EIR BY OTHER AGENCIES AND PERSONS.

Upon the filing and posting of a Notice of Completion, Staff shall consult with and obtain comments from each Responsible Agency, Trustee Agency, and any other public agency having jurisdiction by law over resources which may be affected by the project including water agencies consulted pursuant to Guidelines Section 7.07. Those public agencies having jurisdiction by law over the project shall include, but are not necessarily limited to:

- (a) Any city or county bordering the project area;
- (b) Transportation planning agencies and public agencies with transportation facilities located within the project area;
- (c) The State Department of Water Resources, when a project is located within one mile of a facility of the State Water Resources Development System.

Staff may also consult with and obtain comments from any person known to have special expertise with respect to any environmental impact involved whose comments relative to the Draft EIR would be desirable. Staff may also consult with any member of the public who has filed a written request for notice with the Commission Clerk and any person whom the project applicant believes will be concerned with the environmental effects of the project.

When a redevelopment agency establishes or amends its redevelopment plan the project area contains land in agricultural use, the agency shall also send a copy of the Draft EIR to those specific agricultural and farm agencies and organizations as required by Health and Safety Code Section 33333.3.

7.22 TIME FOR REVIEW OF DRAFT EIR; FAILURE TO COMMENT.

A period of between thirty (30) and sixty (60) days from the filing of the Notice of Completion of the Draft EIR shall be allowed for review of and comment on the Draft EIR, except in unusual situations. If a state agency is a Responsible Agency, or if the Draft EIR is submitted to the State Clearinghouse, the review period shall be at least forty-five (45) days. When a Draft EIR is submitted to the State Clearinghouse for review, the public review period shall be at least as long as the period of review established by the State Clearinghouse.

A shorter review period of the Draft EIR by the State Clearinghouse can be requested by the Commission; however, a shortened review period shall not be less than thirty (30) days for a Draft EIR. Any request for a shortened review period must be made in writing by the Commission to the Office of Planning and Research. The Commission may designate a person to make these requests.

A shortened review period is not available for any proposed project of statewide, regional or areawide environmental significance as determined pursuant to State Guidelines Section 15206. Any approval of a shortened review period shall be given prior to, and reflected in, the public notices.

In the event a public agency, group, or person whose comments on a Draft EIR are solicited fails to comment within the required time period, it shall be presumed, that such agency, group, or person has no comment to make, unless the lead agency has received a written request for a specific extension of time for review and comment and a statement of reasons for the request.

Continued planning activities concerning the proposed project, short of formal approval, may continue during the period set aside for review and comment on the Draft EIR.

7.23 PUBLIC HEARING ON DRAFT EIR.

A public hearing on the Draft EIR document is not required by CEQA but may be held by the decision making body either in separate proceedings or in conjunction with other proceedings of the Commission. The procedures for the manner of conducting the public hearings shall be described at the time the hearing convenes.

The Draft EIR should be used as the outline for discussion at the public hearing. If a public hearing is held, it shall be conducted at least fourteen (14) days after the filing of the Notice of Completion, but in no event after the time set for expiration of the comment period.

Public notice of the time and place of the hearing shall be posted in a conspicuous location at Commission office and published in a newspaper of general circulation within the Commission's jurisdiction at least fourteen (14) days in advance of the hearing. The Notice also shall indicate the locations at which the Draft EIR is available for review. To the extent that the Commission maintains an Internet web site, notice of all public hearings should be made available in electronic format on that site.

7.24 RESPONSE TO COMMENTS ON DRAFT EIR.

The Commission as Lead Agency shall evaluate any comments on environmental issues received during the public review period for the Draft EIR and shall prepare a written response to those comments. As stated below, the Commission should also consider evaluating and responding to any comments received after the public review period. The response of the Commission may take the form of a revision of the Draft EIR, an attachment to the Draft EIR, or some other oral or written response which is adequate under the circumstances of the project. The response must describe the disposition of any significant environmental issues raised in the comment, such as revisions to the proposed project which mitigate anticipated impacts or objections. If the Commission's position is at variance with specific recommendations or suggestions raised in the comment, the Commission's response must detail the reasons why such recommendations or suggestions were not accepted. Moreover, the Commission shall respond to any specific suggestions for project alternatives or mitigation measures for significant impacts, unless such alternatives or mitigation measures are facially infeasible. The response shall contain recommendations, when appropriate, to alter the project as described in the Draft EIR as a result of an analysis of the comments received.

Comments submitted via email shall be treated as written comments for all purposes. Comments sent to the public agency via email are deemed received when they actually arrive in an email account of a staff person who has been designated or identified as the point of contact for a particular project.

At least ten (10) days prior to certifying a Final EIR, the Commission shall provide a written response to any public agency which has made comments on the Draft EIR. The Commission is not required to respond to comments received after the public review period. However, the Commission should consider responding to all comments if it will not delay action on the Final EIR, since any comment received before final action on the EIR can form the basis of a legal challenge. A written response which refutes the comment or adequately explains the Commission's action in light of the comment, will assist the Commission in defending against a legal challenge.

7.25 PREPARATION AND CONTENTS OF FINAL EIR.

Following the receipt of any comments on the Draft EIR as required herein, such comments shall be evaluated by Staff and a Final EIR shall be prepared.

The Final EIR shall meet all requirements of Guidelines Sections 7.12 and 7.13 and shall consist of the Draft EIR or a revision of the Draft, a section containing either verbatim or in summary the comments and recommendations received through the review and consultation process, a list of persons, organizations and public agencies commenting on the Draft, and a section containing the responses of the Commission to the significant environmental points raised in the review and consultation process.

At least ten (10) days prior to certifying a Final EIR, the City shall provide a written response to any public agency which has made comments on the Draft EIR. The City is not required to respond to comments received after the public review period. However, the City should consider responding to all comments if it will not delay action on the Final EIR, since any comment received before final action on the EIR can form the basis of a legal challenge. A written response that refutes the comment or adequately explains the City's action in light of the comment will assist the City in defending against a legal challenge.

7.26 RECIRCULATION WHEN NEW INFORMATION IS ADDED TO EIR.

When significant new information is added to the EIR after notice and consultation, but before certification, the Commission shall give Notice of Preparation of the Draft EIR again pursuant to Guidelines Section 7.03 and shall recirculate the Draft EIR for another public review period. The term "information" can include changes in the project or environmental setting as well as additional data or other information. The Commission shall also consult again with those persons contacted pursuant to Guidelines Section 7.18 before certifying the EIR.

New information is significant only when the EIR is changed in a way that would deprive the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of a project or a feasible way to mitigate or avoid such an effect, including a feasible project alternative, that the project proponents decline to implement. Recirculation is required, for example, when: (1) new information added to an EIR discloses (a) a new significant environmental impact resulting from the project or from a new mitigation measure proposed to be implemented, (b) a significant increase in the severity of an environmental impact (unless mitigation measures are also adopted that reduce the impact to a level of insignificance), or (c) a feasible project alternative or mitigation measure that clearly would lessen the significant environmental impacts of the project, but which the project proponents decline to adopt; or (2) the Draft EIR is so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

Recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR. If the revision is limited to a few chapters or portions of the EIR, the Commission as Lead Agency need only recirculate the chapters or portions that have been modified. A decision to not recirculate an EIR must be supported by substantial evidence in the record.

Recirculating an EIR can result in the Commission receiving more than one set of comments from reviewers. When the EIR is substantially revised and the entire EIR is recirculated, the Commission may require that reviewers submit new comments and need not respond to those comments received during the earlier circulation period. The Commission shall

advise reviewers, either within the text of the revised EIR or by an attachment to the revised EIR, that although part of the administrative record, the previous comments do not require a written response in the final EIR, and that new comments must be submitted for the revised EIR. The Commission need only respond to those comments submitted in response to the recirculated revised EIR. The Commission must send to every agency, person, or organization that commented on the prior draft EIR a notice of the recirculation specifying that new comments must be submitted.

When the EIR is revised only in part and the Commission is recirculating only the revised chapters or portions of the EIR, the Commission may request that reviewers limit their comments to the revised chapters or portions. The Commission need only respond to (i) comments received during the initial circulation period that relate to chapters or portions of the document that were not revised and recirculated; and (ii) comments received during the recirculation period that relate to the chapters or portions of the earlier EIR that were revised and recirculated. The Commission's request that reviewers limit the scope of their comments shall be included either within the text of the revised EIR or by an attachment to the revised EIR.

When recirculating a revised EIR, either in whole or in part, the Commission must, in the revised EIR or by an attachment to the revised EIR, summarize the revisions made to the previously circulated draft EIR.

7.27 CERTIFICATION OF FINAL EIR.

Following the preparation of the Final EIR, Staff shall review the Final EIR and make a recommendation to the Commissioners regarding whether the Final EIR is in order and whether it has been completed in compliance with CEQA, the State Guidelines and the Commission's Guidelines. The Final EIR and Staff recommendation shall then be presented to the Commissioners. The Commission shall independently review and analyze the Final EIR, and determine that the Final EIR reflects its independent judgment. The Commission shall certify and find that: (1) the Final EIR has been completed in compliance with CEQA, the State Guidelines and the Commission's Guidelines; (2) the Commission has reviewed and analyzed the Final EIR before approving the project; and (3) the Final EIR reflects the independent judgment of the Commission.

7.28 CONSIDERATION OF EIR BEFORE APPROVAL OR DISAPPROVAL OF PROJECT.

The EIR shall be reviewed and considered by the decision making body before it approves or disapproves the proposed project for which the EIR was prepared. The decision making body may then proceed to consider the proposed project for purposes of approval or disapproval. Separately or in conjunction with its action approving or disapproving the project, the decision making body shall certify that it has reviewed and considered the information contained in the EIR.

7.29 FINDINGS.

The decision making body shall not approve or carry out a project if a completed EIR identifies at least one significant effect of the project unless it makes one or more of the

following written findings for each such significant effect, accompanied by a statement of the facts supporting each finding. Findings must be supported by substantial evidence in the record.

- (a) That changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment, and which are fully enforceable through permit conditions, agreements, or other measures. These mitigation measures must be expressly adopted or rejected in the EIR. There should be a description of the specific reasons for rejecting identified mitigation measures. Passing references to mitigation measures in other sections of the EIR, or in a Statement of Overriding Considerations, are not sufficient.
- (b) That such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been, or can and should be, adopted by that other agency.
- (c) That specific economic, legal, social, technological or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the Final EIR. The decision making body must make specific written findings stating why it has rejected an alternative to the project as infeasible.

If any of the proposed alternatives could avoid or lessen an adverse impact for which no mitigation measures are proposed, the Commission shall analyze the feasibility of such alternative(s). If the project is to be approved without including such alternative(s), the Commission shall find that specific economic, legal, social, technological or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the alternatives identified in the Final EIR and shall list such considerations before such approval.

The decision making body shall not approve or carry out a project as proposed unless (1) the project as approved will not have a significant effect on the environment or (2) its significant environmental effects have been eliminated or substantially lessened (as determined through one or more of the findings indicated above), and any remaining, unavoidable significant effects have been found acceptable because of facts and circumstances described in a Statement of Overriding Considerations (see Guidelines Section 7.31). Statements in the Draft EIR or comments on the Draft EIR are not determinative of whether the project will have significant effects.

When making the findings required by subdivision (a) of this section, the Commission as Lead Agency shall specify the location and custodian of the documents or other materials which constitute the record of proceedings upon which it based its decision.

7.30 SPECIAL FINDINGS REQUIRED FOR FACILITIES WHICH MAY EMIT HAZARDOUS AIR EMISSIONS NEAR SCHOOLS.

No Environmental Impact Report or Negative Declaration shall be approved for any project involving the construction or alteration of a facility within one-fourth of a mile of a school which might reasonably be anticipated to emit hazardous or acutely hazardous air emissions as defined below or which would handle acutely hazardous material or a mixture containing acutely hazardous material in a quantity equal to or greater than that specified in

Health and Safety Code Section 25536(a), which may impose a health or safety hazard to persons who would attend or would be employed at the school unless both of the following occur:

- (a) The Commission, as Lead Agency, in preparing the Environmental Impact Report or Negative Declaration has consulted with the school district or districts having jurisdiction over the school regarding the potential impact of the project on the school when circulating the proposed Negative Declaration or Draft EIR for review; and
- (b) The school district has been given written notification of the project not less than thirty (30) days prior to the proposed approval or certification of the Environmental Impact Report or Negative Declaration.
- (c) Definitions:
 - (1) “Hazardous air emissions” means any substance released into the air which is on the list prepared pursuant to Section 25532(a) and Section 44321 of the Health and Safety Code.
 - (2) “Acutely hazardous air emissions” means any substance released into the air defined by Section 25532(a) of the Health and Safety Code.

7.31 STATEMENT OF OVERRIDING CONSIDERATIONS.

Whenever a project approved by the decision making body will cause unmitigated significant environmental effects, the decision making body must adopt a Statement of Overriding Considerations. A Statement of Overriding Considerations allows the decision making body to approve a project despite one or more unmitigated significant environmental impacts identified in the Final EIR. A Statement of Overriding Considerations can be made only if feasible project alternatives or mitigation measures do not exist to reduce the environmental impact(s) to a level of insignificance and the benefits of the project outweigh the adverse environmental effect(s). The feasibility of project alternatives or mitigation measures is determined by whether the project alternative or mitigation measure can be accomplished within a reasonable period of time, taking into account economic, environmental, social, legal and technological factors. Project benefits which are appropriate to consider include the economic, environmental, technological and social value of the project.

Substantial evidence in the entire record must justify the decision making body’s findings and its use of the Statement of Overriding Considerations. If the decision making body makes a Statement of Overriding Considerations, the statement must be included in the record of the project approval and mentioned in the Notice of Determination.

7.32 MITIGATION REPORTING OR MONITORING PROGRAM FOR EIR.

When making the findings required by subdivision (a) of Guidelines Section 7.29, the Commission must do all of the following:

- (a) adopt a reporting or monitoring program to assure that mitigation measures which are required to mitigate or avoid significant effects on the environment will be implemented by the project proponent or other responsible party in a timely manner, in accordance with conditions of project approval;

- (b) make sure all conditions and mitigation measures are feasible and fully enforceable through permit conditions, agreements, or other measures. Such permit conditions, agreements, and measures must be consistent with applicable constitutional requirements such as the “nexus” and “rough proportionality” standards established by the case; and
- (c) specify the location and the custodian of the documents which constitute the record of proceedings upon which the Commission based its decision in the resolution certifying the EIR.

There is no requirement that the reporting or monitoring program be circulated for public review; however, the Commission may choose to circulate it for public comments along with the Draft EIR. The mitigation measures required to mitigate or avoid significant effects on the environment must be adopted as conditions of project approval.

The adequacy of a mitigation monitoring program is determined by the “rule of reason.” This means that a mitigation monitoring program does not need to provide every imaginable measure. It needs only to provide measures that are reasonably feasible.

This reporting or monitoring program shall be designed to assure compliance during the implementation or construction of a project. If a Responsible Agency or Trustee Agency has required that certain conditions be incorporated into the project, the Commission may request that agency to prepare and submit a proposed reporting or monitoring program. The Commission shall also require that prior to the close of the public review period for a Draft EIR (see Guidelines Section 7.22), the Responsible or Trustee Agency submit detailed performance objectives for mitigation measures, or refer the Commission to appropriate, readily available guidelines or reference documents. Any mitigation measures submitted to the Commission by a Responsible or Trustee Agency shall be limited to measures which mitigate impacts to resources which are within the Responsible or Trustee Agency’s authority.

Transportation information resulting from the reporting or monitoring program required to be adopted by the Commission shall be submitted to the regional transportation planning agency where the project is located and to the Department of Transportation for a project statewide, regional or areawide significance according to State Section 15006. The transportation planning agency and the Department of Transportation are required by law to adopt guidelines for the submittal of these reporting or monitoring programs, so the Commission may wish to tailor its submittal to such guidelines.

Local agencies have the authority to levy fees sufficient to pay for this program. Therefore, the Commission will charge the project proponent a fee to cover actual costs of program processing and implementation.

The Commission may delegate reporting or monitoring responsibilities to an agency or to a private entity which accepts the delegation; however, until mitigation measures have been completed, the Commission remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with the program.

The Commission may choose whether its program will monitor mitigation, report on mitigation, or both. “Reporting” is defined as a written compliance review that is presented to

the Commission or an authorized staff person. A report may be required at various stages during project implementation or upon completion of the mitigation measure. Reporting is suited to projects which have readily measurable or quantitative mitigation measures or which already involve regular review. "Monitoring" is generally an ongoing or periodic process of project oversight. Monitoring is suited to projects with complex mitigation measures which may exceed the expertise of the Commission to oversee, are expected to be implemented over a period of time, or require careful implementation to assure compliance.

At its discretion, the Commission may adopt standardized policies and requirements to guide individually adopted programs. Standardized policies or requirements for monitoring and reporting may describe, but are not limited to:

- (a) The relative responsibilities of various departments within the Commission for various aspects of the program.
- (b) The responsibilities of the project proponent.
- (c) Guidelines adopted by the Commission to govern preparation of programs.
- (d) General standards for determining project compliance with the mitigation measures and related conditions of approval.
- (e) Enforcement procedures for noncompliance, including provisions for administrative appeal.
- (f) Process for informing the Commission and staff of the relative success of mitigation measures and using those results to improve future mitigation measures.

When a project is of statewide, regional, or areawide importance, any transportation information generated by a program must be submitted to the transportation planning agency in the region where the project is located, as well as the Department of Transportation.

7.33 NOTICE OF DETERMINATION.

Following consideration and approval of a project for which the Commission is the Lead Agency, the decision making body shall order Staff to prepare, certify and file, a Notice of Determination (Form "F") which shall contain the following:

- (a) An identification of the project by its common name where possible and its location.
- (b) A brief description of the project.
- (c) The date when the Commission approved the project.
- (d) Whether the project in its approved form will have a significant effect on the environment.
- (e) A statement that an EIR was prepared and certified pursuant to the provisions of CEQA.
- (f) Whether mitigation measures were made a condition of the approval of the project.
- (g) Whether findings and/or a Statement of Overriding Considerations was adopted for the project.
- (h) The address where a copy of the EIR (with comments and responses) and the record of project approval may be examined by the general public.

The Notice of Determination shall then be filed, within five (5) working days of the action, with the Clerk of each county in which the project will be located. The Clerk must post

the Notice of Determination within twenty-four (24) hours of receipt. The Notice must be posted in the office of the Clerk for a minimum of thirty (30) days. Simultaneously with the filing of the Notice of Determination with the Clerk, Staff shall cause a copy of such Notice to be posted at Commission's offices. If the project requires discretionary approval from a state agency, the Notice of Determination shall also be filed with the Office of Planning and Research, within five (5) working days of project approval, along with proof of payment of the California Department of Fish and Game fee or Certificate of Fee Exemption (see Guidelines Section 7.36).

The filing and posting by the Clerk of the Notice of Determination usually starts a 30-day statute of limitations on court challenges to the approval under CEQA. If a Notice of Determination is not filed, a one hundred eighty 180-day statute of limitations will apply. When a request has been made for a copy of the Notice prior to the date on which the Commission certifies the Final EIR, such Notice must be mailed, first class postage prepaid, within five (5) days of the Commission's determination. If such a request is made following the Commission's determination, then the copy should be mailed in the same manner as soon as possible.

7.34 DISPOSITION OF A FINAL EIR.

The Commission shall file a copy of the Final EIR with the appropriate planning agency of any city or county where significant effects on the environment may occur. The Commission shall also retain one or more copies of the Final EIR as a public record for a reasonable period of time. Finally, for private projects, the Commission may require that the project applicant provide a copy of the certified Final EIR to each Responsible Agency.

7.35 PRIVATE PROJECT COSTS.

For private projects, the person or entity proposing to carry out the project shall be charged a reasonable fee to recover the estimated costs incurred by the Commission in preparing, circulating, and filing the Draft and Final EIRs, as well as all publication costs incident thereto.

7.36 FILING FEES FOR PROJECTS WHICH AFFECT WILDLIFE RESOURCES.

At the time a Notice of Determination for an EIR is filed with the Clerk, a fee of \$850 shall be paid to the Clerk for projects which will adversely affect fish and wildlife resources. These fees are collected by the Clerk on behalf of the California Department of Fish and Game ("DFG").

Only one filing fee is required for each project unless the project is tiered or phased and separate environmental documents are prepared. For projects where a Lead Agency and Responsible Agencies file separate Notices of Determination, only the Lead Agency is required to pay the fee.

Note: The Clerk customarily charges a documentary handling fee for each project in addition to the filing fee specified above. Refer to the Index in the Staff Summary to help determine the correct amount.

For private projects, the Commission shall pass these costs on to the project applicant.

No fees are required for projects with a “de minimis” effect on fish and wildlife resources, or for certain projects undertaken by the DFG and implemented through a contract with a non-profit entity or local government agency. A project with a “de minimis” effect has no potential for adverse effect on fish and wildlife. This is an important exception. DFG considers the following projects as likely to have “de minimis” effects on fish and wildlife, depending on the specific facts of each project:

- (1) Projects which enhance fish and wildlife and their habitats and result in no accompanying adverse impacts to fish or wildlife;
- (2) Lot line adjustments;
- (3) Building remodeling;
- (4) Annexations;
- (5) Redevelopment on existing urban subdivisions with no wildlife habitat;
- (6) Infill of undeveloped lots;
- (7) Adoption of a General Plan, where CEQA requires a subsequent discretionary project approval before any physical change to natural habitat is permitted.

If the Commission believes that a project will have a “de minimis” effect on wildlife resources, it should file the Certificate of Fee Exemption attached as Form “L”. This form requires the Commission to set forth facts in support of the fee exemption. These facts should include: (1) the name and address of the project proponent; (2) a brief description of the project and its location; (3) a statement that an initial study has been prepared by the Commission to evaluate the project’s effects on wildlife resources, if any; (4) a declaration that there is no evidence before the Commission that the project will have any potential for adverse effect on wildlife resources; and (5) a declaration that the Commission has, on the basis of substantial evidence, rebutted the presumption of adverse effect contained in the regulations. A presumption of adverse effect occurs if the project has the potential for adverse effects on the fish and wildlife resources listed on Form “L”. To rebut the presumption of adverse effect, the Commission should explain in the declaration why the project would not have an adverse impact on fish and wildlife and reference any supporting evidence. These findings should be made at the time of approval of the EIR and attached to Form “L” when submitted to the County. Two (2) copies of Form “L” must be filed with a Notice of Determination in order to obtain the fee exemption.

If the Commission believes that a project has been undertaken by the DFG, that the project’s costs are payable from one or more of the sources indicated in the Fish and Game Code, and that the project is being implemented through a contract with a non-profit entity or a local government agency, the DFG filing does not apply. Since the DFG has not yet adopted regulations to govern this exemption, including a new “Certificate of Fee Exemption,” the Commission may wish to use Form L and make appropriate modifications to reflect this exemption.

8. TYPES OF EIRS

8.01 PROJECT EIR.

The most common type of EIR examines the environmental impacts of a specific development project and focuses primarily on the changes in the environment that would result from the development project. This chapter describes a number of examples of various EIRs tailored to different situations. All EIRs must meet the content requirements summarized in Guidelines Section 7.13.

8.02 SUBSEQUENT EIR.

A Subsequent EIR is required when a previous EIR has been prepared and certified or a Negative Declaration has been adopted for a project and at least one of the three following situations occur:

- (a) Substantial changes are proposed in the project which will require major revisions of a previous EIR due to the identification of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- (b) Substantial changes occur with respect to the circumstances under which the project is to be undertaken which will require major revisions of a previous EIR due to the identification of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- (c) New information, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the Negative Declaration was adopted, becomes available and shows any of the following: (1) the project will have one or more significant effects not discussed in a previous EIR or Negative Declaration, (2) significant effects previously examined will be substantially more severe than shown in a previous EIR, (3) mitigation measures or alternatives previously found not to be feasible are in fact feasible and would substantially reduce one or more significant effects, but the project proponent declines to adopt the mitigation measures or alternatives, or (4) mitigation measures or alternatives which were not considered in a previous EIR would substantially lessen one or more significant effects on the environment, but the project proponent declines to adopt the mitigation measures or alternatives.

A Subsequent EIR must receive the same circulation and review as the previous EIR received.

In instances where the Commission is evaluating a modification or revision to an existing use permit, the Commission may consider only those environmental impacts related to the changes between what was allowed under the old permit and what is requested under the new permit. Only if these differential impacts fall within the categories described above may the Commission require additional environmental review.

When the Commission is considering approval of a development project which is consistent with a general plan for which an EIR was completed, another EIR is required only if the project causes environmental effects peculiar to the parcel which were not addressed in the

prior EIR, or which substantial new information shows will be more significant than described in the prior EIR.

8.03 SUPPLEMENT TO AN EIR.

The Commission as a Lead or Responsible Agency may choose to prepare a Supplement to an EIR, rather than a Subsequent EIR, if any of the conditions described in Guidelines Section 8.02 would require the preparation of a Subsequent EIR and only minor additions or changes would be necessary to make the previous EIR adequately apply to the project in the changed situation. To assist the Commission in making this determination, the decision making body should request an Initial Study and/or a recommendation by Staff. The Supplement to the EIR need contain only the information necessary to make the previous EIR adequate for the project as revised.

A Supplement to an EIR shall be given the same kind of notice and public review as is given to a Draft EIR, but may be circulated by itself without recirculating the previous EIR.

When the decision making body decides whether to approve the project, it shall consider the previous EIR as revised by the supplement. Findings pursuant to Guidelines Section 7.29 shall be made for each significant effect shown in the previous EIR as supplemented.

8.04 ADDENDUM TO AN EIR.

The Commission as a Lead or Responsible Agency may choose to prepare an Addendum to an EIR, rather than a Supplement to an EIR, only if none of the conditions described in Guidelines Section 8.02 calling for preparation of a Subsequent EIR have occurred and minor technical changes or additions are necessary. Since significant effects on the environment were addressed by findings in the original EIR, no new findings are required in the addendum.

An Addendum to an EIR need not be recirculated for public review but can be included in or attached to the Final EIR. The decision making body shall consider the addendum with the Final EIR prior to making a decision on a project. A brief explanation of the decision not to prepare a Subsequent EIR should be included in the addendum, the EIR findings or elsewhere in the record. This explanation must be supported by substantial evidence.

8.05 TIERED EIR.

“Tiering” refers to using the analysis of general matters contained in a previously certified broader EIR in later EIRs or Negative Declarations prepared for narrower projects. The later EIR or Negative Declaration may incorporate by reference the general discussions from the broader EIR and may concentrate solely on the issues specific to the later project.

An Initial Study shall be prepared for the later project and used to determine whether a Tiered EIR may be used and whether new significant effects should be examined. A Tiered EIR shall be used for later projects where a prior EIR has been prepared and certified for a program, plan, policy, or ordinance and the Commission determines that:

- (a) The later project is consistent with a program, plan, policy or ordinance for which an EIR has been prepared and certified;
- (b) The later project is consistent with applicable local land use plans and zoning of the city and county in which the later project would be located; and
- (c) The later project would not require a Subsequent or Supplemental EIR. (See Guidelines Sections 8.02 and 8.03.)

Tiering does not excuse the Commission from adequately analyzing reasonable foreseeable significant environmental effects of a project, and does not justify deferring such analysis to a later tier EIR or Negative Declaration. However, the level of detail contained in a first-tier EIR need not be greater than that of the program, plan, policy, or ordinance being analyzed. In addition, where the Commission is using the tiering process in connection with an EIR for a large-scale planning approval, such as a general plan or component thereof (e.g., an area plan or community plan), the development of detailed, site-specific information may not be feasible. Such site-specific information can be deferred, in many instances, until such time as the Commission prepares a future environmental document in connection with a project of a more limited geographical scale, as long as deferral does not prevent adequate identification of significant effects of the planning approval at hand.

Where a first-tier EIR has been prepared and certified for a program, plan, policy, or ordinance consistent with the requirements of this section, the Commission should limit the EIR or Negative Declaration on the later project to effects which:

- (a) Were not examined as significant effects on the environment in the prior EIR; or
- (b) Are susceptible to substantial reduction or avoidance by the choice of specific revisions in the project by the imposition of conditions or other means.

Where the Commission determines that a cumulative effect had been adequately addressed in the prior EIR, that effect is not treated as significant for purposes of the later EIR or Negative Declaration and need not be discussed in detail. When assessing whether there is a new significant cumulative effect, the Commission shall consider whether the incremental effects of the project would be considerable when viewed in the context of past, present, and probable future projects.

Significant environmental effects have been “adequately addressed” if the Commission determines that they have been mitigated below a level of significance or avoided as a result of the prior EIR and findings were adopted in connection with that prior environmental report.

The Commission may use only a valid CEQA document as a first-tier document. Accordingly, the Commission should carefully review the first-tier environmental document to determine whether or not the statute of limitations for challenging the document has run. If the statute of limitations has not expired, the Commission should use the first-tier document with caution and pay careful attention to the legal status of the document. If the first-tier document is subsequently invalidated by the courts, any later environmental document may also be defective.

8.06 STAGED EIR.

Where a large capital project will require a number of discretionary approvals from governmental agencies and one of the approvals will occur more than two years before construction will begin, a Staged EIR may be prepared covering the entire project in a general form or manner. A Staged EIR should evaluate a proposal in light of current and contemplated plans and produce an informed estimate of the environmental consequences of an entire project. The particular aspect of the project before the Commission for approval shall be discussed with a greater degree of specificity.

Where a Staged EIR has been prepared, a Supplement to that EIR shall be prepared when a later approval is required for the project, and the information available at the time of the later approval would permit consideration of additional environmental impacts, mitigation measures, or reasonable alternatives to the project.

8.07 PROGRAM EIR.

A Program EIR is an EIR which may be prepared on an integrated series of actions that are related either:

- (a) Geographically;
- (b) As logical parts in a chain of contemplated actions;
- (c) In connection with the issuance of rules, regulations, plans or other general criteria to govern the conduct of a continuing program; or
- (d) As individual projects carried out under the same authorizing statutory or regulatory authority and having generally similar environmental effects which can be mitigated in similar ways.

Subsequent activities in the program must be examined in the light of the program EIR to determine whether additional environmental documents must be prepared. Additional environmental review documents must be prepared if the proposed later project may arguably cause significant adverse effects on the environment.

8.08 USE OF A PROGRAM EIR WITH SUBSEQUENT EIRS AND NEGATIVE DECLARATIONS.

A program EIR can be used to simplify the task of preparing environmental documents on later parts of the program. The Program EIR can:

- (a) Provide the basis in an Initial Study for determining whether the later activity may have any significant effects.
- (b) Be incorporated by reference to deal with regional influences, secondary effects, cumulative impacts, broad alternatives and other factors that apply to the program as a whole.
- (c) Focus an EIR on a subsequent project to permit discussion solely of new effects which had not been considered before.

8.09 USE OF AN EIR FROM AN EARLIER PROJECT.

A single EIR may be utilized to describe more than one project when the projects involve substantially identical environmental impacts. Any environmental impacts peculiar to one of the projects must be separately set forth and explained.

8.10 MASTER EIR.

A Master EIR is an EIR which may be prepared for:

- (a) A general plan (including elements and amendments);
- (b) A specific plan;
- (c) A project consisting of smaller individual projects to be phased;
- (d) A regulation to be implemented by subsequent projects;
- (e) A project to be carried out pursuant to a development agreement;
- (f) A project pursuant to or furthering a redevelopment plan;
- (g) A state highway or mass transit project subject to multiple reviews or approvals; or
- (h) A regional transportation plan or congestion management plan.

A Master EIR must do both of the following:

- (a) Describe and present sufficient information about anticipated subsequent projects within its scope, including their size, location, intensity, and scheduling; and
- (b) Preliminarily describe potential impacts of anticipated subsequent projects for which insufficient information is available to support a full impact assessment.

The Commission and Responsible Agencies identified in the Master EIR may use the Master EIR to limit environmental review of subsequent projects. However, the subsequent project Lead Agency must prepare an Initial Study to determine whether the subsequent project and its significant environmental effects were included in the Master EIR. If the subsequent project Lead Agency finds that the subsequent project will have no additional significant environmental effect and that no new mitigation measures or alternatives may be required, it may prepare written findings to that effect without preparing a new environmental document. When the lead agency makes this finding, it must provide public notice of the availability of its proposed finding for public review and comment in the same manner as if it were providing public notice of the availability of a draft EIR. (See Sections 15177(d) and 15087 of the State Guidelines and Section 7.18 of these Guidelines.)

When the Lead Agency cannot find that the subsequent project will have no additional significant environmental effect and no new mitigation measures or alternatives will be required, it must prepare either a Mitigated Negative Declaration or an EIR for the subsequent project.

The Master EIR cannot be used to limit review of a subsequent project if it was certified more than five (5) years before the filing of an application for the subsequent project, or if the approval of a project that was not described in the Master EIR may affect the adequacy of the environmental review in the Master EIR for any subsequent project. However, the five (5) year limitation does not apply if the Commission finds that no substantial changes or information

related to the Master EIR exist, or if it certifies a Subsequent or Supplemental EIR that makes appropriate modification to the Master EIR.

The Commission as Lead Agency must provide Notice of Completion and availability of a Master EIR within a period of time prior to final adoption by the public agency, as described in Guidelines Section 7.18.

The Commission may develop a fee program to fund the costs of a Master EIR.

8.11 FOCUSED EIR.

A Focused EIR is an EIR for a subsequent project identified in a Master EIR. It may be used only if the Commission finds that the Master EIR's analysis of cumulative, growth-inducing, and irreversible significant environmental effects is adequate for the subsequent project. The Focused EIR must incorporate by reference the Master EIR.

The Focused EIR must analyze additional significant environmental effects not addressed in the Master EIR and any new mitigation measures or alternatives not included in the Master EIR. "Additional significant effects on the environment" means those project-specific effects on the environment which were not addressed as significant effects on the environment in the Master EIR.

The Focused EIR must also examine the following:

- (a) Significant effects discussed in the Master EIR for which substantial new information exists that shows those effects may be more significant than described in the Master EIR;
- (b) Those mitigation measures found to be infeasible in the Master EIR for which substantial new information exists that shows those effects may be more significant than described in the Master EIR; and
- (c) Those mitigation measures found to be infeasible in the Master EIR for which substantial new information exists that shows those measures may now be feasible.

The Focused EIR need not examine the following effects:

- (a) Those that were mitigated through Master EIR mitigation measures; and
- (b) Those that were examined in the Master EIR in sufficient detail to allow project-specific mitigation or for which mitigation was found to be the responsibility of another agency.

A Focused EIR may be prepared for a multifamily residential project not exceeding 100 units or a mixed use residential project not exceeding 100,000 square feet even though the project was not identified in a Master EIR, if the following conditions are met:

- (a) The project is consistent with a general plan, specific plan, or zoning ordinance for which an EIR was prepared within five (5) years of the Focused EIR's certification;
- (b) The project does not require the preparation of a Subsequent or Supplemental EIR pursuant to Guidelines Sections 8.02 or 8.03; and
- (c) The parcel is bordered by urban development, previously developed by urban uses, or within one-half mile of a rail transit station.

A Focused EIR for these projects should be limited to site-specific significant effects and significant effects that substantial new information shows will be more significant than described in the Master EIR.

9. CEQA LITIGATION

9.01 TIMELINES.

When a CEQA lawsuit is filed, there are numerous and complex time requirements that must be met. Pressing deadlines begin to run in the days immediately after a CEQA lawsuit has been filed. For example, within ten (10) business days of the public agency being served with a petition or complaint alleging a violation of CEQA, the Lead Agency must provide the petitioner with a list of responsible and public agencies with jurisdiction over any natural resource affected by the project at issue.

There are a variety of other deadlines that apply in CEQA litigation. If a CEQA lawsuit is filed, CEQA counsel should be contacted immediately in order to ensure that all the applicable deadlines are met.

9.02 ADMINISTRATIVE RECORDS.

When the lead agency's CEQA finding and/or action is challenged in a lawsuit, the lead agency must certify the administrative record that formed the basis of the lead agency's decision. To the extent the documents listed below exist and are not subject to a privilege that exempts them from disclosure, the following items should be included in the administrative record:

- (1) All project application materials;
- (2) All staff reports and related documents prepared by the public agency with respect to its compliance with the substantive and procedural requirements of CEQA and with respect to the action on the project;
- (3) All staff reports and related documents prepared by the public agency and written testimony or documents submitted by any person relevant to any findings or statement of overriding considerations adopted by the public agency pursuant to this division;
- (4) Any transcript or minutes of the proceedings at which the decisionmaking body of the public agency heard testimony on or considered any environmental document on the project, and any transcript or minutes of proceedings before any advisory body to the respondent public agency that were presented to the decisionmaking body prior to action on the environmental documents or on the project;
- (5) All notices issued by the public agency to comply with CEQA or with any other law governing the processing and approval of the project;
- (6) All written comments received in response to, or in connection with, environmental documents prepared for the project, including responses to the notice of preparation;
- (7) All written evidence or correspondence submitted to, or transferred from, the public agency with respect to compliance with CEQA or with respect to the project;
- (8) Any proposed decisions or findings submitted to the decisionmaking body of the public agency by its staff or the project proponent, project

- opponents, or other persons, to the extent such documents are subject to public disclosure;
- (9) The documentation of the final public agency decision, including the final environmental impact report, mitigated negative declaration, or negative declaration, and all documents, in addition to those referenced in paragraph (3) above, cited or relied on in the findings or in a statement of overriding considerations adopted pursuant to CEQA;
 - (10) Any other written materials relevant to the respondent public agency's compliance with CEQA or to its decision on the merits of the project, including the initial study; any drafts of any environmental document, or portions thereof, that were released for public review; copies of studies or other documents relied upon in any environmental document prepared for the project and either made available to the public during the public review period or included in the public agency's files on the project; and internal agency communications related to the project or to compliance with CEQA, to the extent such documents are subject to public disclosure; and
 - (11) The full written record before any inferior administrative decisionmaking body whose decision was appealed prior to the filing of the lawsuit

The administrative record should be organized either chronologically or by topic area. The administrative record should include a master index of documents. The documents generated by the lead agency during the CEQA process should be properly labeled for ease of identification.

10. **DEFINITIONS**

Whenever the following terms are used in these Guidelines, they shall have the following meaning unless otherwise expressly defined:

- 10.01** **“Applicant”** means a person who proposes to carry out a project which requires a lease, permit, license, certificate, or other entitlement for use, or requires financial aid from one or more public agencies when applying for governmental approval or assistance.
- 10.02** **“Approval”** means a decision by the decision making body or other authorized body or officer of the Commission which commits the Commission to a definite course of action with regard to a particular project. With regard to any project to be undertaken directly by the Commission, approval shall be deemed to occur on the date when the decision making body adopts a motion or resolution determining to proceed with the project, which in no event shall be later than the date of adoption of plans and specifications. As to private projects, approval shall be deemed to have occurred upon the earliest commitment to provide service or the issuance by the Commission of a discretionary contract, subsidy, or other form of financial assistance, lease, permit, license, certificate, or other entitlement for use of the project. The mere acquisition of land by the Commission shall not, in and of itself, be deemed to constitute approval of a project.
- For purposes of these Guidelines, all environmental documents must be completed as of the time of project approval.
- 10.03** **“Baseline”** refers to the pre-project environmental conditions. By comparing the project’s potential impacts to the baseline, the Lead Agency determines whether the project’s impacts are substantial enough to be significant under the relevant thresholds of significance. Generally, the baseline is the environmental conditions existing on the date the environmental analysis begins, such as the date of the Notice of Preparation is published for an EIR, or the date of the Notice of Intent to Adopt a Negative Declaration. However, in certain circumstances an earlier or later date may provide a more accurate environmental analysis. The Commission may establish any baseline that is appropriate, including an earlier or later date, as long as the choice of baseline can be supported by substantial evidence.
- 10.04** **“CEQA”** (the California Environmental Quality Act) means California Public Resources Code Sections 21000, et seq.
- 10.05** **“Categorical Exemption”** means an exception from the requirement of preparing a Negative Declaration or an EIR, based on a finding by the Secretary for Resources that the class of projects does not have a significant effect on the environment.
- 10.06** **“Clerk”** means either the “Clerk of the Board” or the “County Clerk” depending upon the county. Please refer to the “Index to Environmental Filing by County” in the Staff Summary to determine which applies.

10.07 **“Commission”** means the Orange County Local Agency Formation Commission.

10.08 **“Community-Level Environmental Review”** means either (1) or (2) below:

- (1) A certified Environmental Impact Report for any of the following actions:
 - (a) A general plan,
 - (b) A revision or update to the general plan that includes at least the land use and circulation elements,
 - (c) An applicable community plan,
 - (d) An applicable specific plan, or
 - (e) A housing element of the general plan, if the Environmental Impact Report analyzed the environmental effects of the density of the proposed project; or
- (2) A negative declaration or mitigated negative declaration adopted as a subsequent environmental review document, following and based upon an Environmental Impact Report on a general plan, community plan or specific plan.

10.09 **“Cumulative Impacts”** means two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts. The individual effects may be changes resulting from a single project or a number of separate projects, whether past, present or future.

The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present and reasonably foreseeable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.

10.10 **“Cumulatively Considerable”** means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

10.11 **“Decision Making Body”** means the body within the Commission (i.e., Commissioners) with final approval authority over the particular project. (See Guidelines Section 10.02.)

10.12 **“Developed Open Space”** means land that meets each of the following three criteria:

- (a) Is publicly owned, or financed in whole or in part by public funds,
- (b) Is generally open to, and available for use by, the public,
- (c) Is predominantly lacking in structural development other than structures associated with open spaces, including, but not limited to, playgrounds, swimming pools, ballfields, enclosed child play areas, and picnic facilities.

Developed Open Space includes land that has been designated for acquisition by a public agency for open space purposes, but does not include lands acquired by public

funds dedicated to the acquisition of land for housing purposes.

- 10.13** **“Development Project”** means any project undertaken for the purpose of development, including any project involving the issuance of a permit for construction or reconstruction but not a permit to operate. It does not include any ministerial projects proposed to be carried out or approved by public agencies. (Government Code Section 65928.)
- 10.14** **“Discretionary Project”** means a project for which approval requires the exercise of independent judgment, deliberation, or decision-making on the part of the Commission.
- 10.15** **“Draft EIR”** means an EIR containing the information summarized in Guidelines Section 7.13.
- 10.16** **“Emergency”** means a sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services. Emergency includes such occurrences as fire, flood, earthquake, landslide or other natural disaster, as well as such occurrences as riot, war, accident or sabotage.
- 10.17** **“Environment”** means the physical conditions which exist in the area which will be affected by a proposed project, including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.
- 10.18** **“EIR”** (Environmental Impact Report) means a detailed written statement setting forth the environmental effects and considerations pertaining to a project and may mean either a Draft or a Final version of a typical EIR, a Project EIR, a Subsequent EIR, a Supplemental EIR, a Tiered EIR, a Staged EIR, a Program EIR, a Master EIR, or a Focused EIR.
- 10.19** **“Feasible”** means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.
- 10.20** **“Final EIR”** means an EIR containing the information contained in the Draft EIR, comments either verbatim or in summary received in the review process, a list of persons commenting, and the response of the Commission to the comments received.
- 10.21** **“Historical Resources”** shall be determined according to the following:
- (a) Resources listed in, or eligible for listing in, the California Register of Historical Resources shall be considered historical resources.
 - (b) Resources included in a local register of historical resources, as defined in Public Resources Code Sections 5020.1(k), or identified as significant in a historical resource survey, as specified in Public Resources Code Section 5024.1(g), are presumed to be historically or culturally significant, unless a preponderance of evidence demonstrates that they are not historically or

- culturally significant.
- (c) Any of the following may be considered historically significant: any object, building, structure, site, area, place, record or manuscript which a Lead Agency determines, based upon substantial evidence in light of the whole record, to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military or cultural annals of California.
 - (d) Any resource shall be considered by the Lead Agency to be historically significant if the resource meets the criteria for listing on the California Register of Historical Resources. (See Public Resources Code Section 5024.1 and 14 California Code of Regulations Section 4852.)
 - (e) The Lead Agency is not precluded from determining that a resource is a historical resource, as defined in Public Resources Code Sections 5020.1(j) or 5024.1, even if it is: (a) not listed in, or determined to be eligible for listing in, the California Register of Historical Resources; (b) not included in a local register of historical resources; or (c) not identified in a historical resources survey.

10.22 **“Infill Site”** means a site in an urbanized area that meets either of the following criteria:

- (1) The immediately adjacent parcels are:
 - (a) (i) developed with qualified urban uses, or (ii) at least 75% of the perimeter of the site adjoins parcels that are developed with qualified urban uses and the remaining 25% of the site adjoins parcels that have previously been developed for qualified urban uses,
 - (b) the site has not been developed for urban uses, and
 - (c) no parcel within the site has been created within the past ten (10) years;or
- (2) The site has been previously developed for qualified urban uses. (Public Resources Code Section 21061.0.5.)

10.23 **“Initial Study”** means a preliminary analysis conducted by the Commission to determine whether an EIR or a Negative Declaration must be prepared or to identify the significant environmental effects to be analyzed in an EIR.

10.24 **“Jurisdiction by Law”** means the authority of any public agency to grant a permit or other entitlement for use, to provide funding for the project in question or to exercise authority over resources which may be affected by the project.

The Commission will have jurisdiction by law over a project when the Commission, having primary and exclusive jurisdiction over the area involved, is the site of the project, the area in which the major environmental effects will occur, or the area in which reside those citizens most directly concerned by any such environmental effects.

- 10.25** **“Land Disposal Facility”** means a hazardous waste facility where hazardous waste is disposed in, on, or under land. (Health and Safety Code Section 25199.1(d).)
- 10.26** **“Large Treatment Facility”** means a treatment facility which treats or recycles one thousand (1,000) or more tons of hazardous waste during any one month of the current reporting period commencing on or after July 1, 1991. (Health and Safety Code Section 25205.1(d).)
- 10.27** **“Lead Agency”** means the public agency which has the principal responsibility for preparing environmental documents and for carrying out or approving a project, which may have significant effects on the environment, where more than one public agency is involved with the same underlying activity.
- 10.28** **“Low-Income Households”** means households of persons and families of very low and low income. Low-income persons or families are those eligible for financial assistance from governmental agencies for occupants of state-funded housing. Very low income persons are those whose incomes do not exceed the qualifying limits for very low income families as established and amended pursuant to Section 8 of the United States Housing Act of 1937. Such limits are published and updated in the California Code of Regulations. (Public Resources Code Section 21159.20(c).)
- 10.29** **“Low- and Moderate-Income Households”** means persons or families whose income does not exceed 120% of area median income, adjusted for family size in accordance with adjustment factors adopted and amended by the United States Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937. (Public Resources Code Section 21159.20(d).)
- 10.30** **“Major Transit Stop”** means a site containing an existing rail station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes that operate at least every fifteen (15) minutes during the morning and afternoon peak commute periods. (Public Resources Code Section 21064.3.)
- 10.31** **“Mitigated Negative Declaration”** means a Negative Declaration prepared for a Project when the Initial Study has identified potentially significant effects on the environment, but (1) revisions in the project plans or proposals made by, or agreed to by, the applicant before the proposed Negative Declaration and Initial Study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur, and (2) there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment.
- 10.32** **“Mitigation”** means avoiding the environmental impact altogether by not taking a certain action or parts of an action, minimizing impacts by limiting the degree or magnitude of the action and its implementation, rectifying the impact by repairing, rehabilitating or restoring the impacted environment, reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action, or compensating for the impact by replacing or providing substitute resources

or environments.

- 10.33** **“Negative Declaration”** means a written statement by the Commission briefly describing the reasons that a proposed project, not exempt from CEQA, will not have a significant effect on the environment and, therefore, does not require the preparation of an EIR.
- 10.34** **“Notice of Completion”** means a brief report filed with the Office of Planning and Research by the Commission when it is the Lead Agency as soon as it has completed a Draft EIR and is prepared to send out copies for review.
- 10.35** **“Notice of Determination”** means a brief notice to be filed by the Commission when it approves or determines to carry out a project which is subject to the requirements of CEQA.
- 10.36** **“Notice of Exemption”** means a brief notice which may be filed by the Commission when it has approved or determined to carry out a project, and it has determined that the project is exempt from the requirements of CEQA. Such a notice may also be filed by an applicant where such a determination has been made by a public agency which must approve the project.
- 10.37** **“Notice of Preparation”** means a brief notice sent by a Lead Agency to notify the Responsible Agencies and Trustee Agencies that the Lead Agency plans to prepare an EIR for a project. The purpose of this notice is to solicit guidance from such agencies as to the scope and content of the environmental information to be included in the EIR.
- 10.38** **“Offsite Facility”** means a facility that serves more than one generator of hazardous waste. (Public Resources Code Section 21151.1(13)(g).)
- 10.39** **“Person”** includes any person, firm, association, organization, partnership, business, trust, corporation, company, city, county, city and county, town, the state, and any of the agencies which may be political subdivisions of such entities.
- 10.40** **“Private Project”** means a project which will be carried out by a person other than a governmental agency, but which will need a discretionary approval from the Commission. Private projects will normally be those listed in subsections (b) and (c) of Guidelines Section 10.41.
- 10.41** **“Project”** means the whole of an action or activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect change in the environment, and is any of the following:
- (a) A discretionary activity directly undertaken by the Commission including but not limited to public works construction and related activities, clearing or grading of land, or improvements to existing public structures.
 - (b) A discretionary activity involving the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies,

or which is supported, in whole or in part, through contracts, grants, subsidies, loans or other forms of assistance by the Commission.

- (c) A discretionary project proposed to be carried out or approved by public agencies, including but not limited to the enactment and amendment of local General Plans or elements thereof, the enactment of zoning ordinances, the issuance of zoning variances, the issuance of conditional use permits and the approval of tentative subdivision maps.

The presence of any real degree of control over the manner in which a project is completed makes it a discretionary project.

The term project refers to the activity which is being approved and which may be subject to several discretionary approvals by governmental agencies. The term project does not mean each separate governmental approval.

- 10.42** **“Project-Specific Effects”** means all the direct or indirect environmental effects of a project other than cumulative effects and growth-inducing effects. (Public Resources Code Section 21065.3.)
- 10.43** **“Qualified Urban Use”** means any residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses. (Public Resources Code Section 21072.)
- 10.44** **“Residential”** means a use consisting of either residential units only or residential units and primarily neighborhood-serving goods, services, or retail uses that do not exceed 15% of the total floor area of the project.
- 10.45** **“Responsible Agency”** means a public agency which proposes to carry out or approve a project for which a Lead Agency has prepared the environmental documents. For the purposes of CEQA, the term “Responsible Agency” includes all federal, state, regional and local public agencies other than the Lead Agency which have discretionary approval power over the project.
- 10.46** **“Significant Effect”** means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the activity including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance. A social or economic change related to a physical change may be considered in determining whether the physical change is significant.
- 10.47** **“Staff”** means the Executive Officer or his or her designee.
- 10.48** **“Standard”** means a standard of general application that is all of the following:
 - (a) A quantitative, qualitative or performance requirement found in a statute, ordinance, resolution, rule, regulation, order, or other standard of general application;
 - (b) Adopted for the purpose of environmental protection;
 - (c) Adopted by a public agency through a public review process;

- (d) Governs the same environmental effect which the change in the environment is impacting; and
- (e) Governs the jurisdiction where the project is located.

The definition of “standard” includes thresholds of significance adopted by the Commission which meet the requirements of this section. If there is a conflict between standards, the Commission shall determine which standard is appropriate based upon substantial evidence in light of the whole record.

10.49 **“State Guidelines”** means the Guidelines for Implementation of the California Environmental Quality Act as adopted by the Secretary of the California Resources Agency as they now exist or hereafter may be amended. (California Administrative Code, Title 14, Sections 15000, et seq.)

10.50 **“Substantial Evidence”** means reliable information on which a fair argument can be based to support an inference or conclusion, even though another conclusion could be drawn from that information. “Substantial evidence” includes facts, fact-related reasonable assumptions predicated upon facts, and expert opinion supported by facts. “Substantial evidence” does not include argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly inaccurate or erroneous, or evidence of social or economic impacts which do not contribute to, or are not caused by, physical impacts on the environment.

10.51 **“Tiering”** means the coverage of general matters in broad scope or Program EIRs, with subsequent narrower environmental documents (such as site-specific EIRs) incorporating by reference the general discussions and concentrating solely on the issues specific to the environmental document subsequently prepared.

10.52 **“Transportation Facilities”** means major local arterials and public transit within five (5) miles of the project site, and freeways, highways, and rail transit service within ten (10) miles of the project site.

10.53 **“Trustee Agency”** means a State agency having jurisdiction by law over natural resources affected by a project which are held in trust for the people of the State of California. Trustee Agencies include, but are not limited to:

- (a) The California Department of Fish and Game with regard to the fish and wildlife of the state.
- (b) The State Lands Commission with regard to state owned “sovereign” lands.
- (c) The State Department of Parks and Recreation with regard to units of the State Park System.
- (d) The University of California with regard to sites within the Natural Land and Water Reserve System.
- (e) The State Water Resources Control Board with respect to surface waters.

10.54 **“Urbanized Area”** means any one of the following:

- (1) An incorporated city that has a population of at least one hundred thousand

- (100,000) persons;
- (2) An incorporated city that has a population of less than one hundred thousand (100,000) persons if the population of the city and not more than two contiguous incorporated cities combined equals at least one hundred thousand (100,000) persons; or
 - (3) An unincorporated area that meets both of the following requirements:
 - (a) The unincorporated area is either: (i) completely surrounded by one or more incorporated cities, the population of the unincorporated area and the population of the surrounding incorporated city or cities equals not less than one hundred thousand (100,000) persons and the population density of the unincorporated area at least equals the population density of the surrounding city or cities; or (ii) located within an urban growth boundary and has an existing residential population of at least five thousand (5,000) persons per square mile.
 - (b) The board of supervisors with jurisdiction over the unincorporated area has previously issued a finding that the general plan, zoning ordinance, and related policies and programs applicable to the area are consistent with principles that encourage compact development, and the board of supervisors previously submitted a draft of that finding to the Office of Planning and Research for a 30-day comment period prior to issuing a final finding. (Public Resources Code Section 21071.)

10.55 **“Urban Growth Boundary”** means a provision of a locally adopted general plan that allows urban uses on one side of the boundary and prohibits urban uses on the other side of the boundary.

10.56 **“Wetlands”** has the same meaning as that term is construed in the regulations issued by the United States Army Corps of Engineers pursuant to the Clean Water Act. Thus “wetlands” means areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. (Public Resources Code Section 21159.21(d), incorporating Title 33, Code of Federal Regulations, Section 328.3.)

10.57 **“Wildlife Habitat”** means the ecological communities upon which wild animals, birds, plants, fish, amphibians, and invertebrates depend for their conservation and protection. (Public Resources Code Section 21159.21.)

10.58 **“Zoning Approval”** means any enactment, amendment, or appeal of a zoning ordinance; granting of a conditional use permit or variance; or any other form of land use, subdivision, tract, or development approval required from the city or county having jurisdiction to permit the particular use of the property.

11. FORMS

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PRELIMINARY EXEMPTION ASSESSMENT

(Certificate of Determination
When Attached to Notice of Exemption)

1.	Name or description of project:			
2.	Location:			
3.	Entity or person undertaking project:	A.		
		B.	Other (Private)	
		(1)	Name	
		(2)	Address	
4.	Staff Determination: The Commission's Staff, having undertaken and completed a preliminary review of this project in accordance with the Commission's "Local Guidelines for Implementing the California Environmental Quality Act (CEQA)" has concluded that this project does not require further environmental assessment because:			
	a.		The proposed action does not constitute a project under CEQA.	
	b.		The project is a Ministerial Project.	
	c.		The project is an Emergency Project.	
	d.		The project constitutes a feasibility or planning study.	
	e.		The project is categorically exempt.	
			Applicable Exemption Class:	
	f.		The project is statutorily exempt.	
			Applicable Exemption:	
	g.		The project is otherwise exempt on the following basis:	
	h.		The project involves another public agency which constitutes the Lead Agency.	
			Name of Lead Agency:	

Date: _____

Staff: _____

NOTICE OF EXEMPTION

TO:		Clerk of the Board of Supervisors	FROM:		
	or				
		County Clerk			
	County of:				

1.	Project Title:	
2.	Project Location - Specific:	
3.	(a)	Project Location - City:
	(b)	Project Location - County:
4.	Description of nature, purpose, and beneficiaries of Project:	
5.	Name of Public Agency approving project:	
6.	Name of Person or Agency carrying out project:	

7.	Exempt status: (check one)		
	(a)		Ministerial project.
	(b)		Not a project.
	(c)		Emergency Project.
	(d)		Categorical Exemption. State type and class number:
	(e)		Declared Emergency.
	(f)		Statutory Exemption. State Code section number:
	(g)		Other. Explanation:
8.	Reason why project was exempt:		
9.	Contact Person:		
	Telephone:		
10.	Attach Preliminary Exemption Assessment (Form "A") before filing.		

Date Received for Filing: _____

(Clerk Stamp Here)

Signature (Lead Agency Representative)

Title

ENVIRONMENTAL IMPACT ASSESSMENT
(STAFF RECOMMENDATION FOR INTERNAL USE ONLY)

1.	Name or description of project:			
2.	Location:			
3.	Entity or Person undertaking project:			
	A.			
	B.	Other (Private)		
	(1)	Name:		
	(2)	Address:		
4.	<p>Staff Determination:</p> <p>The Commission's staff, having undertaken and completed an Initial Study of this project in accordance with the Commission's "Local Guidelines for Implementing the California Environmental Quality Act (CEQA)" for the purpose of ascertaining whether the proposed project may have a significant effect on the environment, has reached the following conclusion:</p>			
	(a)	The project could not have a significant effect on the environment; therefore, a Negative Declaration should be adopted.		
	(b)	The Initial Study identified potentially significant effects on the environment but revisions in the project plans or proposals made by or agreed to by the applicant would avoid the effects, or mitigate the effects to a point where clearly no significant effects would occur; therefore a Mitigated Negative Declaration should be adopted.		
	(c)	The project may have a significant effect on the environment; therefore, an Environmental Impact Report will be required.		

Date: _____

Staff: _____

NOTICE OF INTENT TO ADOPT A NEGATIVE DECLARATION/
MITIGATED NEGATIVE DECLARATION

Notice is hereby given that the public agency named below has completed an Initial Study of the following described project at the following location:	
Public Agency:	
Project Name:	
Project Location:	
This Initial Study was completed in accordance with the Commission's Guidelines implementing the California Environmental Quality Act. This Initial Study was undertaken for the purpose of deciding whether the project may have a significant effect on the environment. On the basis of such Initial Study, the Commission's Staff has concluded that the project will not have a significant effect on the environment, and has therefore prepared a Draft Negative Declaration/Mitigated Negative Declaration. The Initial Study reflects the independent judgment of the Agency.	
	The Project site IS on a list compiled pursuant to Government Code section 65962.5.
	The Project site IS NOT on a list compiled pursuant to Government Code section 65962.5.
.	The proposed project IS considered a project of statewide, regional or areawide significance.
	The proposed project IS NOT considered a project of statewide, regional or areawide significance.
	The proposed project WILL affect highways or other facilities under the jurisdiction of the State Department of Transportation.
	The proposed project WILL NOT affect highways or other facilities under the jurisdiction of the State Department of Transportation.
	A scoping meeting WILL be held by the lead agency.
	A scoping meeting WILL NOT be held by the lead agency.
If the project meets the criteria requiring the scoping meeting, or if the agency voluntarily elects to hold such a meeting, the date, time and location of the scoping meeting are as follows:	

Date:	Time:	Location:
Copies of the Initial Study and Draft Negative Declaration/Mitigated Negative Declaration are on file and are available for public review at the Agency office, located at:		
Agency address:		
Comments will be received until the following date:		
Any person wishing to comment on this matter must submit such comments, in writing, to the Agency prior to this date. Comments of all Responsible Agencies are also requested.		
The Commission will consider the project and the Draft Negative Declaration/Mitigated Negative Declaration at its meeting on:		
Date:	Time:	
If the Commission finds that the project will not have a significant effect on the environment, it may adopt the Negative Declaration/Mitigated Negative Declaration. This means that the Commission may proceed to consider the project without the preparation of an Environmental Impact Report.		

Date Received
for Filing: _____

(Clerk Stamp Here)

Staff

Title

NEGATIVE DECLARATION

1.	Name or description of project:			
2.	Location:			
3.	Entity or Person undertaking project:			
	A.			
	B.	Other (Private)		
		(1)	Name:	
		(2)	Address:	
<p>The Commission, having reviewed the Initial Study of this proposed project and having reviewed the written comments received prior to the public meeting of the Commission, including the recommendation of the Commission's Staff, does hereby find and declare that the proposed project will not have a significant effect on the environment. A brief statement of the reasons supporting the Commission's findings are as follows:</p>				
<p>The Commission hereby finds that the Negative Declaration reflects its independent judgment. A copy of the Initial Study may be obtained at:</p>				
Phone No.:				
<p>The location and custodian of the documents and any other material which constitute the record of proceedings upon which the Agency based its decision to adopt this Negative Declaration are as follows:</p>				
Phone No.:				

Staff

Date Received for Filing

NOTICE OF DETERMINATION

TO:		Clerk of the Board of Supervisors	FROM:	
	or			
		County Clerk		
	County of			

	Office of Planning and Research (If the project requires state approval) P.O. Box 3044 (U.S. Mail) 1400 Tenth Street, Room 222 (overnight delivery) Sacramento, CA 95812-3044 Sacramento, CA 95812
--	--

SUBJECT: Filing of Notice of Determination in Compliance with Section 21152 of the Public Resources Code.

Project Title:		
State Clearinghouse Number (If submitted to SCH):	Contact Person:	Telephone Number:
Project Location (Include County):		
Project Description:		

This is to certify that the (Lead Agency or Responsible Agency):

approved the above described project on

and made the following
determinations:

	1.		The project will have a significant effect on the environment.
			The project will NOT have a significant effect on the environment
	2.		An Environmental Impact Report was prepared and certified for this project pursuant to the provisions of CEQA and reflects the independent judgment of the Lead Agency.
			A Negative Declaration was prepared for this project pursuant to the provisions of CEQA and reflects the independent judgment of the Lead Agency.
			A Mitigated Negative Declaration was prepared for this project pursuant to the provisions of CEQA and reflects the independent judgment of the Lead Agency.

	3.		Mitigation measures were made a condition of the approval of the project.
			Mitigation measures were NOT made a condition of the approval of the project.
	4.		A Statement of Overriding Considerations was adopted for this project.
			A Statement of Overriding Considerations was NOT adopted for this project
	5.		Findings were made pursuant to the provisions of CEQA.
			Findings were NOT made pursuant to the provisions of CEQA.
	6.		The location and custodian of the documents which comprise the record of proceedings for the Final EIR (with comments and responses) or Negative Declaration are specified as follows:
		Custodian:	Location:

Date:

Signature:

Date Received for Filing:

Title:

NOTICE OF PREPARATION

TO:	(Insert Responsible Agency or Trustee Agency) (Insert Address)	FROM:	
-----	---	-------	--

SUBJECT: Notice of Preparation of a Draft Environmental Impact Report.

The [INSERT AGENCY NAME] will be the Lead Agency and will prepare an environmental impact report for the project identified below. We need to know the views of your agency as to the scope and content of the environmental information which is germane to your agency's statutory responsibilities in connection with the proposed project. Your agency will need to use the EIR prepared by our agency when considering your permit or other approval for the project. The Project description, location, and the probable environmental effects are contained in the attached materials.

	A copy of the Initial Study IS attached.
	A copy of the Initial Study IS NOT attached.
	The proposed project IS considered a project of statewide, regional or areawide significance.
	The proposed project IS NOT considered a project of statewide, regional or areawide significance.
	The proposed project WILL affect highways or other facilities under the jurisdiction of the State Department of Transportation.
	The proposed project WILL NOT affect highways or other facilities under the jurisdiction of the State Department of Transportation.
	A scoping meeting WILL be held by the lead agency.
	A scoping meeting WILL NOT be held by the lead agency.

If the project meets the criteria requiring the scoping meeting, or if the agency voluntarily elects to hold such a meeting, the date, time and location of the scoping meeting are as follows:

Date:	Time:	Location:
-------	-------	-----------

Your response must be sent at the earliest possible date, but not later than 30 days after receipt of this notice.

Please send your response to [INSERT NAME] at the address shown above. We will need the name of a contact person in your agency.

Project Title	
Project Location	
Project Description	
Project Applicant (if any)	
California Environmental Protection Agency Hazardous Waste List (if applicable)	

Date:	Signature:
	Title:
	Telephone:

Consulting firm retained to prepare draft EIR (if applicable):

Name	
Address	
City/State/Zip	
Contact Person	

NOTICE OF COMPLETION

Mail to: State Clearinghouse PO Box 3044 (U.S. Mail) 1400 Tenth Street, Room 222 (overnight delivery)
 (916) 445-0613 Sacramento, CA 95812-3044 Sacramento, CA 95812

PROJECT TITLE

LEAD AGENCY

CONTACT PERSON

STREET ADDRESS

MAILING ADDRESS

TELEPHONE

CITY

ZIP CODE

CITY

ZIP CODE

COUNTY

PROJECT LOCATION

COUNTY

COMMUNITY

CITY/NEAREST

CROSS STREETS

CODE

ZIP
TOTAL ACRES

ASSESSOR'S PARCEL NO.

SECTION

TOWNSHIP

RANGE

BASE

WITHIN 2 MILES: STATE HIGHWAY NO.

WATERWAYS

AIRPORTS

RAILWAYS
SCHOOLS

DOCUMENT TYPE - CEQA

NOP
Early Cons
Neg Dec
Draft EIR
Supplement/Subsequent

(Prior SCH No.):

Other:

DOCUMENT TYPE -

NEPA

OTHER

NOI	Joint Document
EA	Final Document
Draft EIS	Other:
FONSI	

LOCAL ACTION TYPE

General Plan Update	Specific Plan	Rezone	Annexation
General Plan Amendment	Master Plan	Prezone	Redevelopment
General Plan Element	Planned Unit Development	Use Permit	Coastal Permit
Community Plan	Site Plan	Land Division*	Other:
		*(Subdivision, Parcel Map, Tract Map, etc.)	

DEVELOPMENT TYPE

Residential:	Units:	Acres:		Water Facilities:	Type:	MGD:
Office:	Sq.ft.:	Acres:	Employees:	Transportation:	Type:	
Commercial:	Sq.ft.:	Acres:	Employees:	Mining:	Mineral:	
Industrial:	Sq.ft.:	Acres:	Employees:	Power:	Type:	Watts:
Educational:				Waste Treatment:	Type:	
Institutional:				Hazardous Waste:	Type:	
Recreational:				Other:		

Funding(approx.): Federal \$ State \$ Total \$

PROJECT ISSUES DISCUSSED IN DOCUMENT

_____ Aesthetic/Visual _____ Minerals _____ Toxic/Hazardous
 _____ Agricultural Land _____ Noise _____ Traffic/Circulation

<input type="checkbox"/> Air Quality	<input type="checkbox"/> Population/Housing Balance	<input type="checkbox"/> Vegetation
<input type="checkbox"/> Archeological/Historical	<input type="checkbox"/> Public Services/Facilities	<input type="checkbox"/> Water Quality
<input type="checkbox"/> Coastal Zone	<input type="checkbox"/> Recreation/Parks	<input type="checkbox"/> Water Supply/Groundwater
<input type="checkbox"/> Drainage/Absorption	<input type="checkbox"/> Schools/Universities	<input type="checkbox"/> Wetland/Riparian
<input type="checkbox"/> Economic/Jobs	<input type="checkbox"/> Septic Systems	<input type="checkbox"/> Wildlife
<input type="checkbox"/> Fiscal	<input type="checkbox"/> Sewer Capacity	<input type="checkbox"/> Growth Inducing
<input type="checkbox"/> Flood Plain/Flooding	<input type="checkbox"/> Soil Erosion/Compaction/Grading	<input type="checkbox"/> Land Use
<input type="checkbox"/> Forest Land/Fire Hazard	<input type="checkbox"/> Solid Waste	<input type="checkbox"/> Cumulative Effects
<input type="checkbox"/> Geologic/Seismic		<input type="checkbox"/> Other:

PRESENT LAND USE/ZONING/GENERAL PLAN USE

PROJECT DESCRIPTION

Reviewing Agencies Checklist

KEY: S = Document sent by lead agency X = Document sent by SCH

T = Suggested distribution

Resources Agency	State & Consumer Services
<input type="checkbox"/> Boating & Waterways	<input type="checkbox"/> General Services
<input type="checkbox"/> Coastal Commission	<input type="checkbox"/> OLA (Schools)
<input type="checkbox"/> Coastal Conservancy	Environmental Protection Agency
<input type="checkbox"/> Colorado River Board	<input type="checkbox"/> Air Resources board
<input type="checkbox"/> Conservation	<input type="checkbox"/> Calif. Waste Management Board
<input type="checkbox"/> Fish & Game	<input type="checkbox"/> SWRCB: Clean Water Grants
<input type="checkbox"/> Forestry & Fire Protection	<input type="checkbox"/> SWRCB: Delta Unit
<input type="checkbox"/> Office of Historic Preservation	<input type="checkbox"/> SWRCB: Water Quality
<input type="checkbox"/> Parks & Recreation	<input type="checkbox"/> SWRCB: Water Rights
<input type="checkbox"/> Reclamation Board	<input type="checkbox"/> Regional WQCB #:
<input type="checkbox"/> S.F. Bay Conservation & Development Commission	Youth & Adult Corrections
<input type="checkbox"/> Water Resources (DWR)	<input type="checkbox"/> Corrections
Business, Transportation & Housing	Independent Commissions & Offices
<input type="checkbox"/> Aeronautics	<input type="checkbox"/> Energy Commission
<input type="checkbox"/> California Highway Patrol	<input type="checkbox"/> Native American Heritage Commission
<input type="checkbox"/> CALTRANS District #:	<input type="checkbox"/> Public Utilities Commission
<input type="checkbox"/> Dept. of Transportation Planning (headquarters)	<input type="checkbox"/> Santa Monica Mountains Conservancy
<input type="checkbox"/> Housing & Community Development	<input type="checkbox"/> Tahoe Regional Planning Agency
Food & Agriculture	<input type="checkbox"/> Other:
Health & Welfare	
<input type="checkbox"/> Health Services	

Public Review Period (to be filled in by lead agency)

Starting Date: _____ Ending Date: _____

Signature: _____ Date: _____

Lead Agency (Complete if applicable):

Consulting Firm:

Address:

City/State/Zip:

Contact:

Phone:

Applicant:

Address:

City/State/Zip:

Phone:

For SCH Use Only:

Date Received at SCH _____

Date Review Starts _____

Date to Agencies _____

Date to SCH _____

Clearance Date _____

Notes:

ENVIRONMENTAL INFORMATION FORM

(To be completed by private project applicant to assist staff in completing Initial Study)

Date Filed: _____

GENERAL INFORMATION

1. Developer or project sponsor	Name:
	Address:
2. Address of project	
3. Assessor's Block and Lot Number	
4. Person to be contacted regarding this project	Name:
	Address:
	Telephone:
5. Permit Application Number for project	
6. Existing Zoning District	
7. Proposed use of site (project for which this form is filed)	

List and describe any other related permits and other public approvals required for this project, including those required by city, regional, state and federal agencies:

--

PROJECT DESCRIPTION

8. Site size:	
9. Square footage:	
10. Number of floors of construction:	
11. Amount of off-street parking provided:	
12. Attach plans:	
13. Proposed scheduling:	
14. Associated projects:	
15. Anticipated incremental development:	

16. If residential, include the number of units, schedule of unit sizes, range of sales prices or rents and type of household size expected.

--

17. If commercial, indicate the type, whether neighborhood, city or regionally oriented, square footage of sales area and loading facilities.

--

18. If industrial, indicate type, estimated employment per shift and loading facilities.

--

19. If institutional, indicate the major function, estimated employment per shift, estimated occupancy, loading facilities and community benefits to be derived from the project.

--

20. If the project involves a variance, conditional use or rezoning application, state this and indicate clearly why the application is required.

Are the following items applicable to the project or its effects?

Discuss below all items checked yes (attach additional sheets as necessary).

YES NO

YES	NO	
		21. Change in existing features of any bays, tidelands, beaches, lakes, hills or substantial alteration of ground contours.
		22. Change in scenic views or vistas from existing residential areas or public lands or roads.
		23. Change in pattern, scale or character of general area of project.
		24. Significant amounts of solid waste or litter.
		25. Change in dust, ash, smoke, fumes or odors in vicinity.
		26. Change in ocean, bay, lake, stream or ground water quality or quantity, or alteration of existing drainage patterns.
		27. Substantial change in existing noise or vibration levels in the vicinity.
		28. Site on filled land or on slope of 10 percent or more.
		29. Use or disposal of potentially hazardous materials, such as toxic substances, flammables or explosives.
		30. Substantial change in demand for municipal services (police, fire, water, sewage, etc.).
		31. Substantial increase in fossil fuel consumption (electricity, oil, natural gas, etc.).
		32. Relationship to a larger project or series of projects.
		33. Has a prior environmental impact report been prepared for a program, plan, policy or ordinance consistent with this project?
		34. If you answered yes to question 33, may this project cause significant effects on the environment that were not examined

--	--

in the prior EIR?

ENVIRONMENTAL SETTING

35. Describe the project site as it exists before the project, including information on topography, soil stability, plants and animals, and any cultural, historical or scenic aspects. Describe any existing structures on the site, and the use of the structures. Attach photographs of the site. (Snapshots or instant photos acceptable.)

--

36. Describe the surrounding properties, including information on plants and animals and any cultural, historical or scenic aspects. Indicate the type of land use (residential, commercial, etc.), intensity of land use (one-family, apartment houses, shops, department stores, etc.), and scale of development (height, frontage, set-back, rear yard, etc.). Attach photographs of the vicinity. (Snapshots or instant photos acceptable.)

--

CERTIFICATION: I hereby certify that the statements furnished above and in the attached exhibits present the data and information required for this initial evaluation to the best of my ability, and that the facts, statements, and information presented are true and correct to the best of my knowledge and belief.

DATE:	Signature:
	For:

ENVIRONMENTAL CHECKLIST FORM

1. Project Title: _____

2. Lead Agency Name and
Address: _____

3. Contact Person and Phone Number: _____

4. Project Location: _____

5. Project Sponsor's Name and
Address: _____

6. General Plan Designation: _____

7. Zoning: _____

8. Description of Project: (Describe the whole action involved, including but not limited to later phases of the project, and any secondary, support, or off-site features necessary for its implementation. Attach additional sheet(s) if necessary.)

9. Surrounding Land Uses and Setting: (Briefly describe the project's surroundings.)

10. Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement):

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

	Aesthetics		Agriculture Resources		Air Quality
	Biological Resources		Cultural Resources		Geology/Soils
	Hazards & Hazardous Materials		Hydrology/Water Quality		Land Use/Planning
	Mineral Resources		Noise		Population/Housing
	Public Services		Recreation		Transportation/Traffic
	Utilities/Service Systems		Mandatory Findings of Significance		

DETERMINATION (To be completed by the Lead Agency):

On the basis of this initial evaluation:

	I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
	I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
	I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
	I find that the proposed project MAY have a "potentially significant" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
	I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature

Date

Printed Name

For

EVALUATION OF ENVIRONMENTAL IMPACTS:

- 1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g. the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g. the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
- 2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect is significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
- 4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section XVII, "Earlier Analyses," may be cross-referenced).
- 5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:
 - a) Earlier Analyses Used. Identify and state where they are available for review.
 - b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
 - c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
- 6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g. general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
- 7) Supporting Information Sources. A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
- 8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.
- 9) The explanation of each issue should identify:
 - a) the significance criteria or threshold, if any, used to evaluate each question; and
 - b) the mitigation measure identified, if any, to reduce the impact to less than significance.

SAMPLE QUESTION

Issues:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
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I. AESTHETICS. Would the project:

- a) Have a substantial adverse effect on a scenic vista?
- b) Substantially damage scenic resources, including, but not limited to, tress, rock outcroppings, and historic buildings within a state scenic highway?
- c) Substantially degrade the existing visual character or quality of the site and its surroundings?
- d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

II. AGRICULTURE RESOURCES. In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:

- a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?
- b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?
- c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?

III. AIR QUALITY. Where available, the significance criteria established by the applicable air quality management or air pollution control district may be

Issues:

Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
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relied upon to make the following determinations.
Would the project:

- a) Conflict with or obstruct implementation of the applicable air quality plan?
- b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?
- c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is nonattainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?
- d) Expose sensitive receptors to substantial pollutant concentrations?
- e) Create objectionable odors affecting a substantial number of people?

IV. BIOLOGICAL RESOURCES. Would the project:

- a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?
- b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?
- c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other

Issues:

Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
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means?

- d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?
- e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?
- f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

V. CULTURAL RESOURCES. Would the project:

- a) Cause a substantial adverse change in the significance of a historical resource as defined in ' 15064.5?
- b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to ' 15064.5?
- c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?
- d) Disturb any human remains, including those interred outside of formal cemeteries?

VI. GEOLOGY AND SOILS. Would the project:

- a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury or death involving:
- i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault

Issues:

Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.

ii) Strong seismic ground shaking?

iii) Seismic-related ground failure, including liquefaction?

iv) Landslides?

b) Result in substantial soil erosion or the loss of topsoil?

c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?

d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?

e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?

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VII. HAZARDS AND HAZARDOUS MATERIALS.

Would the project:

a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed

Issues:

Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
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school?

- d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

- e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?

- f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?

- g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

- h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

VIII. HYDROLOGY AND WATER QUALITY. Would the project:

- a) Violate any water quality standards or waste discharge requirements?
- b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?

Issues:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?				
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?				
e) Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?				
f) Otherwise substantially degrade water quality?				
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?				
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?				
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?				
j) Expose people or structures to inundation by seiche, tsunami, or mudflow?				

IX. LAND USE AND PLANNING. Would the project:

a) Physically divide an established community?				
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?				

Issues:

Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
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- c) Conflict with any applicable habitat conservation plan or natural community conservation plan?

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X. MINERAL RESOURCES. Would the project:

- a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?
- b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?

XI. NOISE. Would the project result in:

- a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?
- b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?
- c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?
- d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?
- e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?
- f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?

XII. POPULATION AND HOUSING. Would the project:

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Issues:

Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
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- a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of road or other infrastructure)?
- b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?
- c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?

XIII. PUBLIC SERVICES. Would the project:

- a) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

Fire protection?

Police protection?

Schools?

Parks?

Other public facilities?

XIV. RECREATION. Would the project:

- a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?
- b) Does the project include recreational facilities or require the construction or expansion of recreational

Issues:

Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
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facilities which have an adverse physical effect on the environment?

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XV. TRANSPORTATION / TRAFFIC. Would the project:

- a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?
- b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?
- c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?
- d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?
- e) Result in inadequate emergency access?
- f) Result in inadequate parking capacity?
- g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?

XVI. UTILITIES AND SERVICE SYSTEMS. Would the project:

- a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?
- b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could

Issues:

Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
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cause significant environmental effects?

- c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?
- d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed? In making this determination, the City shall consider whether the project is subject to the water supply assessment requirements of Water Code Section 10910, et. seq. (SB 610), and the requirements of Government Code Section 664737 (SB 221).
- e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?
- f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?
- g) Comply with federal, state, and local statutes and regulations related to solid waste?

XVII. MANDATORY FINDINGS OF SIGNIFICANCE

- a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat or a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?
- b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the

Issues:

incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current project, and the effects of probable future projects.)

- c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact

NOTICE OF AVAILABILITY OF DRAFT ENVIRONMENTAL IMPACT REPORT

TO: _____

Project Title

Project Location - Specific

Project Location - City Project Location - County

Description of Nature, Purpose, and Beneficiaries of Project:

The Significant Effects on the Environment, if any, Anticipated as a Result of the Project:

Lead Agency Division

Date when project noticed to public:

Address where copy of the EIR and all documents referenced in the EIR are available:

Review Period

Date, Time and Location of Public Hearing, if any:

Contact Person Area Code - Telephone - Extension

[To be published, posted or mailed to contiguous owners/occupants, and sent to the last known name and address of organizations and individuals who have previously requested it.]

CERTIFICATE OF FEE EXEMPTION

De Minimis Impact Finding

Project Title/Location (include county):	
Name and Address of Project Applicant:	
Project Description:	

Findings of Exemption:

1. An Initial Study has been prepared by the Lead Agency to evaluate the project's effects on wildlife resources, if any.
2. The Lead Agency hereby finds that there is no evidence before the Commission that the project will have any potential for adverse effect on the environment.

3.(a) The project WILL result in changes to the following resources:

3.(b) The project WILL NOT result in changes to the following resources:

- (A) Riparian land, rivers, streams, watercourses and wetlands;
- (B) Native and non-native plant life and the soil required to sustain habitat for fish and wildlife;
- (C) Rare and unique plant life and ecological communities dependant on plant life;
- (D) Listed threatened and endangered plants and animals and the habitat in which they are believed to reside;
- (E) All species listed as protected or identified for special management in the Fish and Game Code, the Public Resources Code, the Water Code or regulations adopted thereunder;
- (F) All marine and terrestrial species subject to the jurisdiction of the Department of Fish and Game and the ecological communities in which they reside; and
- (G) All air and water resources, the degradation of which will individually or cumulatively result in a loss of biological diversity among the plants and animals residing in that air and water.

** If the project will result in changes to any of these resources, the Commission has, on the basis of substantial evidence, "rebutted" the presumption of adverse effect to these resources. A statement in support of this rebuttal is attached.*

CERTIFICATION:

I hereby certify that the Lead Agency has made the above finding(s) of fact and based upon the Initial Study and the hearing record the project will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.

Signature - Lead Agency Representative

Title:

Lead Agency:

Date: